

Contents

<i>Foreword</i>	7
<i>Acknowledgement</i>	9

Part – I Governance

1. Governance in Classic India	13
2. Chanakya: His Life and Works	17
3. Kautilya on Governance, Self-Discipline, and Riches	21
4. Governance in India	33
5. Governance: Make the System Responsive	35
6. Transparency in Governance	41

Part – II Governance in Monopolistic Services

7. Police Governance	47
8. Governance in Judiciary	63
9. Governance in Income Tax	95
10. Governance in Property Registration	103

Part – III
Methods for Improving Governance

11. Towards Service Delivery Excellence	109
12. Citizens' Charters	113
13. Right to Information	123
14. e-Governance: Key to Improve Governance	137
15. Citizen Report Cards: A Strategic Tool to Improve Service Delivery	147
16. Integrity Pact: Governance in Public Procurement and Contracting	151
17. Improving Public Service Delivery: Initiatives of Government of India	165

Part – IV
Some Exemplary Initiatives to Improve Governance

18. Successful Governance Initiatives	173
19. Police Department	183
20. Judiciary	205
21. Education	213
22. Electricity Services	219
23. Health Services	223
24. Public Distribution System	233
25. Water Supply	241
26. Income Tax	245
27. Municipal Services	249
28. Rural Development	253

Foreword

Corruption and real governance are two sides of the same coin. During the last one decade, TI India has taken an active part in matters related to electoral, judicial and civil service reforms. These include annual declaration of assets by Ministers and MPs; filing of affidavits regarding educational qualifications, assets & liabilities, criminal records, etc. while filing their nominations by each candidate contesting elections to Parliament and Assemblies; compulsory audit of accounts of political parties; speedy trial of criminal cases against Ministers and MPs; enactment of legislations for Lok Pal (Parliamentary Ombudsman), Whistle Blowers' Protection and forfeiture of illegally acquired property by corrupt persons, including Ministers and MPs.

One of our missions is to provide information and knowledge on good governance. Our approach is not only to pinpoint areas of darkness wherein the helpless people are exploited but also to illuminate positive nooks and corners of experience so that others can replicate them with suitable modifications. With this objective, this book has been compiled to create awareness about the current state and manner of governance in the country, analyse the efforts to improve the same and the various tools available to a common man for availing the public services he is entitled to. Accordingly, this Book is divided into four parts, namely, perception about governance, state of governance in four major monopolistic services, namely, Police, Judiciary, Income Tax and Registration, efforts to widen awareness about various tools of improving governance, and some exemplary initiatives to enable the concerned quarters to replicate them in order to improve the public service delivery system.

An important object of this Study is also to identify and suggest good practices adopted in some of the departments that had taken initiatives to improve service delivery and reduce corruption as a consequence thereof. We hope that such a study together with a potent "Right to Information

Act” and faithfully implemented Citizens’ Charters will improve the governance substantially and empower the common man to stand his ground and refuse to bribe. In turn, the Service Providers will become used to doing their duties sincerely without extracting any consideration.

TI India gratefully acknowledges the financial support from Concern Worldwide, and useful inputs from several academicians and eminent administrators, whose articles have been included in this volume “Towards Improving Governance”.

Admiral (Retd.) R. H. Tahiliani
Chairman
Transparency International India

Acknowledgement

TI India gratefully acknowledges the valuable contribution of the following eminent experts:

Er. Ajit Mahapatra, National Award winner, Engineer-Industrialist Kalinga House, Rasulgarh, Bhubaneswar-751010.

Shri Arvind Kejriwal, Magassay Award Winner, Parivartan (NGO), Delhi.

Shri Aurobindo Banerjee, IRS (Retd.), Chief Commissioner of Income Tax.

Prof. Balbir S. Sihag, Ph. D. (MIT), Professor of Economics, University of Massachusetts Lowell, USA.

Shri B.P. Sinha, IES (Retd), Addl Chief Economic Adviser, Indian Railway Board, New Delhi.

Shri D.S. Mishra, Chief Vigilance Officer, Airports Authority of India, New Delhi.

Justice (Retd.) Kamleshwar Nath, Chairman, TI India's Eastern & Central UP Chapter, Lucknow.

Shri N.N. Vohra, Former Union Home and Defence Secretary and Principal Secretary to Prime Minister.

Prof. O.P. Dwivedi, Professor Emeritus, Department of Political Science, University of Guelph, Ontario, Canada.

Shri R.K. Laxman, Cartoonist, Warden Road, Mumbai.

Ms. Shyamalima Banerjee, Director, Department of Administrative Reforms & Public Grievances, Ministry of Personnel, PG and Pensions, Government of India.

Shri Suresh Balakrishnan, Public Affairs Foundation, Bangalore.

Shri S.K. Singh, Hony Secretary, TI India.

Hindustan Times, Times of India and other newspapers for their cartoons and other information.

DONOR

Concern Worldwide, Camden Street, Dublin (Ireland).

India Office : 1266, Bhoi Nagar, UnitOIX, Bhubneswar (Orissa).

Part – I

Governance

1

Governance in Classic India*

The *Rig Veda*¹ states “*Atmano mokshartham jagat hitayacha*” i.e. the dual purposes of our life are emancipation of the soul and welfare of the world. Thus, the public good should be the welfare of the society; or in other words, the private good or self-promotion should be subservient to the greatest good of all.

Kautilya’s *Arthashastra*, written in the 4th century BC, is the first known Indian treatise on Public Administration. Vishnugupta, also known as Chanakya or Kautilya, was the architect of Mauryan Empire during the reign of Chandra Gupta Maurya in 4th century BC. He positioned the State as an institutional necessity for human advancement.² Based on this premise, he outlined almost everything that the State should do and described how it should be managed for the maximum happiness of its citizens. He prescribed the following to the ruler:

*Praja sukhe sukham rajyaha prajanamcha hitehitam,
Natma priyyam hitam rajanaha prajanam cha hitam priyam.*

(Kautilya’s Arthashastra)

[In the happiness of his public rests the king’s happiness, in their welfare his welfare. He shall not consider as good only that which pleases him but treat as beneficial to him whatever pleases his public.]

Truly, the commonly believed Hindu philosophy is expressed in the words: *bahujan sukhaya bahujan hitaya* i.e. public welfare lies in the happiness of the masses. Therefore, not only the king but all individuals as well as institutions should keep the happiness and welfare of the society in proper perspective in all their deeds or decisions. This also highlights the prominence of public good over private good. Mahatma Gandhi, who led India to freedom, through

* O.P. Dwivedi & D.S. Mishra. Excerpt from *Handbook of Globalisation, Governance and Public Administration* by Ali Farazmand and Jack Pinkowski. New York: Taylor & Francis.

1. *Rig Veda* is the oldest of the four main scriptures of the Hindu religion.

2. Maheshwari, S.R. (2000), *Public Administration in India*, Delhi: Macmillan India.

Satyagraha, emphasised the importance of means, stating that the means are as much or even more important than the end. He laid the foundation of moral and ethical conduct in political and public life. His concept of ‘trusteeship’ is pertinent to the concept of good governance. He maintained that those in position of power hold the trust of the subject and the future generations and, therefore, should conduct themselves in incorruptible and non-exploitative manner. In the *Bhagavad Gita*, a major religious scripture, Lord Krishna prescribes the following as the virtuous path:

*Pravrittim cha nivrittim cha karyaakarye bhayaabhaye,
Bandham moksham cha yaa vetti, buddhim saa Partha saattviki.*

(Bhagavad Gita, verse 30, chapter 18)

[O Partha! That understanding by which one knows what ought to be done and what is not, what is to be feared and what is not, what one can do and what is prohibited, leads to the virtuous path.]

In *Mahabharata*, the great Indian epic, which narrates the victory of good over evil, Bhishma Pitamaha, who had mastered the art of governance and had dedicated himself to the throne of his kingdom, Hastinapur, says: “the foundation for good governance is righteousness in public affairs. The king, his son—including relatives—his ministers, and the State employees who have taken the oath of their offices to uphold *Dharma* and to take care of the public needs, must not act unjustly or unethically because if they do so, they will not only destroy the moral basis of governance but will also turn the State into a hell” (*Mahabharata, Shanti Parva*).

Brihadaranya Upanishad lays the king’s duty as follows:

*Tadetat kshatrasya kshatram yaddharmaha tasmaddharmatparam nasti,
Atha abliyan baliyamsamanshamsate dharmena yatha ragna evam.*

[It is the responsibility of the king to protect *Dharma*, the public good, so that all citizens get equal opportunity and that the weak are not exploited and harassed by the strong].

Dharma, in Sanskrit, means that which sustains the righteous path. This has been explained in verse 58, chapter 59, *Karna Parva* of *Mahabharata* as below:

*Dharanat dharmamityahu dharmo dharayate prajaha,
Yat syad dharanasamyuktam sa dharmam iti nischayaha.*

(Mahabharata, verse 58, chapter 59)

[*Dharma* sustains the society, *Dharma* maintains social order, *Dharma* ensures well being and progress of humanity, and *Dharma* is surely that which fulfills these objectives].

Governance in Indian scriptures is called *rajdharmā* i.e. righteous duty of the king. Thus, as defined above, the conduct of those involved in governance requires adhering to righteousness which calls for exhibiting the highest standards of morality and ethical behaviour. Hindu scriptures suggest that as kings have been bestowed divine authority they are duty bound to rule only under God's command and by providing clean and ethical administration. Moreover, a king is obligated to do justice to the public by treating them as if they were his own children, and punish any corrupt behaviour in the society. Unethical conduct, therefore, amounts to doing disservice to God, because the king acts only as His viceroy or a deputy. In a nutshell, the Indian philosophy lays emphasis on the premise that inner spirituality and character must govern the conduct and behaviour of the leaders in the society.

Inspired by these values, the framers of the India's Constitution laid down the foundation of effective governance for the country by declaring it as a sovereign, socialist, democratic, secular and federal republic.³ The basic characteristics of the Constitution emerge from the ideals of participatory democracy, guaranteed fundamental rights to the citizens, secularism, cooperative federalism and independent judiciary empowered to review the action/inaction of legislatures and the executives to achieve the objectives of socioeconomic and political justice. The Constitution recognises the diversity in the Indian society and provides opportunities for all citizens, irrespective of caste, creed, religion, gender, etc. to realise their true potential in a multicultural environment. This includes affirmative actions in favour of those who have been deprived by incorporating need based accelerated growth for their mainstreaming. It casts responsibilities on all the three organs of the government to implement these values enshrined in the constitution. While it does not specifically use the term 'good government' as in the Canadian Constitution (1867), in effect the mandate amounts to the same.

The concern for clean and good government has been a major challenge not only for India but also for all developing nations. That challenge was recognised by India's first Prime Minister Jawaharlal Nehru. Over the years, many impediments emerged such as lower level of (and in some cases no) accountability, lack of transparency, unethical behaviour, lack of sensitivity towards public concerns, uneconomic use or misappropriation of state resources or plundering of natural resources with no concern for society or future generations. These impediments along with many related factors have caused public concern about the effectiveness of existing system of governance in India.

3. Socialist and secular added through 42nd amendment of the Constitution of India in 1976.

Appendix–A.1.1

Each nation has its own way of handling a crisis. The institutional and cultural context of India makes the implementation of its various developmental and nation-building programmes uniquely Indian. Of course, examples from other countries are studied and used in the Indian context, however, the process of implementation remains Indian. One may find that resources get diverted, that there is direct political interference in the administrative and enforcement process, that policy goals are deflected and responsibilities for achieving policy mandates are evaded, and that the tokenism may appear to be employed by government administration; nevertheless, the tenacity of some administrators and political leaders (albeit a very few) is such that they are able to keep the system functioning. And so, it would be erroneous to conclude that institutional impediments facing India are such that it is hopeless to expect fast results; instead, one should take the view that Indians have developed their own style of governance and management, and that things get done in their own time.

2

Chanakya: His Life and Works

To return to Machiavelli after reading the military writings of Kautilya is a jolt. It becomes readily apparent that Machiavelli is not even trying to tell us something new about warfare, because he believed the ancient Greeks and Romans knew it all—aside from such things as artillery...

They (Kautilya and Sun Tzu) were also prepared to win in ways Machiavelli would regard as dishonourable and disgraceful—assassination, disinformation, causing quarrels between ministers by bribes or by means of jealousy over a beautiful woman planted as a secret agent, and so on. Machiavelli—who offers no systematic discussion of even guerrilla warfare—would have been easily outmatched by generals reading either Sun Tzu or Kautilya.

— Professor Roger Boesche

Indian system of governance is claimed to have been borrowed from the West. However, there had been governance in ancient India also. The social system, as developed by its founder Manu, was based on *Karma*, i.e., deed. The concept of governance thereafter is attributed to Chandragupt Maurya and Chanakya (c.350–c.275 BC) for two reasons. Firstly, they successfully drove away the Greeks and destroyed the myth about Greek superiority. Secondly, Chanakya wrote, among others, a great treatise called *Arthashastra*, having chapters on the King, the well-organised State, Treasury, Sources of Revenue, Accounts & Audit, Civil Service Regulations, Law & Justice, Foreign Policy, Defence & War, etc.

Chanakya, also known as Kautilya or Vishnugupta, was born in Pataliputra, Magadha (modern Bihar, India), and later moved to Taxila, in Gandhara province (now in Pakistan). He was a Professor (*Acharya*) of Political Science at the Takshashila University and later became the Prime Minister of Emperor Chandragupta Maurya. He is regarded as one of the earliest known political thinkers, economists and kingmakers. He was the man to envision the first Indian empire by unification of the then numerous kingdoms in the Indian subcontinent. Chanakya wanted that the

kingdom should be secured and that the administration should go on smoothly, bringing happiness to the people. He thought to ensure the happiness of the people, there should be a book, laying down how a king should conduct himself, how he should protect himself and the kingdom from the enemies, how to ensure law and order, and so on. Accordingly, three books are attributed to Chanakya: *Arthashastra*, *Nitishastra* and *Chanakya Niti*.

Arthashastra (literally “the Science of Material Gain” in Sanskrit): Chanakya compiled his political ideas into the *Arthashastra*, one of the world’s earliest treatises on political thought and social order. It deals with self-sufficient economy based on indigenous ways of production; distribution and trade, and discusses monetary and fiscal policies, welfare, international relations, and war strategies in detail. *Arthashastra*, depicts in many ways the India of his dreams. When he wrote this volume of epic proportion, the country was ridden in feudalism and closed and self-sufficient economy. The economy based on indigenous ways of production; was in a transitional phase, moving towards the advanced aspects of distribution and production. Culture and regional politics directed the way in which trade was done. The main activities of the economy were agriculture, cattle rearing and commerce. Among the three, Chanakya considered agriculture to be the most important constituent of the economy. It’s a fact that the Indian economy of today is an agro based one. Covering various topics on administration, politics and economy, it is a book of law and a treatise on running a country, which is relevant even today. His ideas remain popular to this day in India.

Nitishastra: Chanakya, apart from being a man of wisdom and unflinching strategies, propounded *Nitishastra*, the ideal way of living for every individual of the society. It is an in depth study of the Indian way of life. He looked at the country like a person surrounded by problems. He worked at the total annihilation of problems by the roots. Most of his views were so farsighted that they appeared to be prophecies. Talking on diverse subjects such as corruption, he commented very rightly, “It’s just as difficult to detect an official’s dishonesty as it is to discover how much water is drunk by the swimming fish.”

Chanakya Niti: It contains many of his *nitis* or policies. It is unique because of its rational approach and an unabashed advocacy of real politics.

Thus, by writing the above books, Chanakya is the only statesman and philosopher, who has been accepted and revered as a genius both by Indian and Western scholars. He has become another name for courage and perseverance, i.e., a never-ending phenomenon. He has truly guided the generations with his wisdom. His views were dimensionally novel. Although

many great savants of the science of *Niti* such as Brihaspati, Shukracharya, Bhartrihari and Vishnu Sharma have echoed many of these instructions in their own celebrated works, it is perhaps the way that Chanakya applied his teachings of *nitishastra* (political science) to end the corrupt and unscrupulous rule. This has made him stand out as a significant historical figure. Chanakya, the expert statesman and wise-sage, was therefore, called variously by different people, namely Vishnugupta and Kautilya. He has often been compared to Machiavelli, Aristotle and Plato, exemplifying his potentiality and influential status. In Jawaharlal Nehru's *Discovery of India*, Chanakya has been called the 'Indian Machiavelli', although he lived and died long before Machiavelli's time.

Celebrated as a shrewd statesman and a ruthless administrator, he comes across as the greatest of diplomats of the world. He had the guts to speak his heart out even in front of the rulers, which shows his strong inclination to democratic values and the audacity to put his views through. Although, he lived around the third century BC, his ideas and principles show concurrence and validity in the present day world. He created controversy by saying, "The ends justify the means" and the ruler should use any means to attain his goals and his actions required no moral sanctions. He recommended even espionage and the liberal use of provocative agents as machineries of the state. As a person, Chanakya has been described variously, as a saint, as a 'ruthless administrator', as the 'kingmaker', a devoted nationalist, a selfless ascetic and a person devoid of all morals.

He has also been criticised for his ruthlessness and trickery and praised for his profound political wisdom. Chanakya, the timeless man, was in pursuit of truth fearlessly 2000 years ago. He was proved right with Vivekanand's words, "Arise, awake, sleep not till the goal is reached."

3

Kautilya on Governance, Self-Discipline, and Riches*

Remove all obstructions to economic activity

— Kautilya

Kautilya was a sophisticated, foresighted and farsighted thinker. He approached every issue methodically and comprehensively. He believed that good governance was required to create opportunities and good institutions, such as the rule of law, were essential for exploiting the opportunities. He had deep insights into various aspects of good governance: its role in creating prosperity, its comprehensive definition and, above all, devising various measures for ensuring its delivery. He proposed complementing the Vedic approach of building virtuous character along with legalistic approach of codification of rules and prescribing appropriate sanctions in case of their violation.

Kautilya's Vision

He had a grand vision of building an empire encompassing the whole of Indian subcontinent, prosperous, secure against foreign threats, internally stable, and based on judicial fairness. He articulated its essential resource base and structure as thus: "The kingdom shall be protected by fortifying the capital and the towns at the frontiers. The land should not only be capable of sustaining the [native] population but also outsiders [when they come into the kingdom] in times of calamities. It should be easy to defend from [attacks by] enemies and strong enough to control neighbouring kingdoms. It should have productive land (free from swamps, rocky ground, saline land, uneven terrain and deserts as well as wild and [unruly] groups of people). It should be beautiful, being endowed with arable land, mines, timber forests,

* Balbir S. Sihag. Almost all the interpretations are based on Rangarajan's translation of *The Arthashastra*. The author is grateful to Shri Bhoopendra Sinha for his many insightful suggestions.

elephant forests, and good pastures rich in cattle. It should not depend [only on] rain for water. It should have good roads and waterways. It should have a productive economy, with a wide variety of commodities and the capacity to sustain a high level of taxation as well as a [large] army. The people shall be predominantly agriculturists [artisans and craftsman], devoted to work, honest, loyal and with intelligent masters and servants (6.1).”

Kautilya’s *Arthashastra* is essentially a treatise on how to make this vision a reality. His genius lay in conceptualising the relationships and feedback mechanism among the various elements of the polity, anticipating almost all possible hurdles and suggesting appropriate measures for their removal. According to Kautilya’s vision, people were expected to be hardworking, honest and patriotic. He also expected them to follow ethical values, which were first enshrined in the *Rig Veda*, of non-violence, truthfulness, compassion, tolerance and cleanliness. Kautilya put a lot of emphasis on ethical conduct but did not take compliance with rules and regulations for granted. He recommended, “Spies in the guise of ascetics shall be [directly] responsible to the Chancellor for reporting on the honesty or dishonesty of farmers, cowherds, merchants and Heads of Departments (2.35).”

Significantly, Kautilya noted that people would be ethical and hardworking only if the king and his administration were also ethical and efficient. He set high ethical standards for the king and offered various arguments based on moral duty and enlightened self-interest to uphold them. He wrote, “A *rajarishi* [a king, wise like a sage] is one who: has self-control, having conquered the [inimical temptations] of the senses, cultivates the intellect by association with elders, is ever active in promoting the security and welfare of the people, endears himself to his people by enriching them and doing good to them and avoids daydreaming, capriciousness, falsehood and extravagance (1.7).” Kautilya stated the ultimate requirement as, “In the happiness of his subjects lies his happiness; in their welfare his welfare. He shall not consider as good only that which pleases him but treat as beneficial to him whatever pleases his subjects (1.19).” Drekmeier notes, “Restrictions on the king were not formal; these were restrictions imposed by the obligation to uphold custom and sacred law and to fulfill the requirements of *rajadharmā*.”

Kautilya expected the king to be a source of inspiration to people. He wrote, “If the king is energetic, his subjects will be equally energetic. If he is slack and lazy in performing his duties, the subjects will also be lax and, thereby, eat into his wealth. Besides, a lazy king will easily fall into the hands of his enemies. Hence, the king should himself always be energetic

(1.19).” Moreover, according to Kautilya, a king should have all the good qualities so that he could lift other elements (particularly his employees). He stated, “A king endowed with the ideal personal qualities enriches the other elements when they are less than perfect (6.1).” He added, “Whatever character the king has, the other elements also come to have the same (8.1).”

Moreover, according to Kautilya, “When people are impoverished, they become greedy; when they are greedy, they become disaffected; when disaffected, they either go to the enemy or kill their ruler themselves (7.5).” According to Kautilya, not only the king should be honest and efficient but his administration also should have those qualities. He suggested, “Thus, the king shall first reform the administration, by punishing appropriately those officers who deal in wealth; they, duly corrected, shall use the right punishments to ensure the good conduct of the people of the towns and the countryside (4.9).” The following table may be used to express Kautilya’s ideas.

TABLE 3.1

Interdependence of Ethical Conduct

		<i>Administration</i>	
		<i>Honest</i>	<i>Dishonest</i>
<i>Public</i>	<i>Honest</i>	Ideal Case I	Unstable Case III
	<i>Dishonest</i>	Unstable Case II	Worst Case IV

Thus, according to Kautilya, either both the public and the administration were honest or both were dishonest. If the administration squandered the tax revenue, why would the taxpayers be honest in paying their taxes? Similarly, why would the administration be honest if the taxpayers cheated on their taxes? Kautilya tried hard to avoid Case IV. He understood the disastrous consequences since that was harmful both to economic growth and national security by creating political instability and tempting an enemy to attack the kingdom. Kautilya did not discuss Case II and Case III, perhaps realising that those were transitory.

Kautilya on the Creation and Preservation of Wealth

Kautilya identified quality of governance, human exertion, accumulation of physical capital, acquisition of land, and knowledge as the sources of economic prosperity. He observed, “Man, without wealth, does not get it even after a hundred attempts. Just as elephants are needed to catch elephants, so does wealth capture more wealth. Wealth will slip away from that childish man who constantly consults the stars (9.4).” It is worth noting that Kautilya understood, by more than 2,000 years earlier than Adam Smith, that accumulation of capital enhanced labour productivity. Additionally, he

emphasised productive activities. Kautilya suggested, "Hence the king shall be ever active in the management of the economy. The root of wealth is economic activity and lack of it brings material distress. In the absence of fruitful economic activity, both current prosperity and future growth are in danger of destruction. A king can achieve the desired objectives and abundance of riches by undertaking productive economic activity (1.19)." Kautilya was concerned not only about the creation of wealth but also in the preservation of the existing wealth. Kautilya wrote, "In the interests of the prosperity of the country, a king should be diligent in foreseeing the possibility of calamities, try to avert them before they arise, overcome those which happen, remove all obstructions to economic activity and prevent loss of revenue to the state (8.4)."

In fact, he believed in the virtuous cycle of good governance, riches, knowledge and ethical conduct. Accordingly, Kautilya put a very heavy emphasis on good governance. Kautilya's definition of good governance consisted of provision of infrastructure and national security, formulation of efficient policies and their effective implementation and ensuring clean and caring administration.

Provision of Infrastructure and National Security

He understood the importance of infrastructure to the creation of economic opportunities. Kautilya suggested, "Not only shall the king keep in good repair productive forests, elephant forests, reservoirs and mines created in the past, but also set up new mines, factories, forests [for timber and other produce], elephant forests and cattle herds [shall promote trade and commerce by setting up] market towns, ports and trade routes, both by land and water. He shall build storage reservoirs, [filling them] either from natural springs or water brought from elsewhere; or, he may provide help to those who build reservoirs by giving them land, building roads and channels or giving grants of timber and implements (2.1)." He added, "A king makes progress by building forts, irrigation works or trade routes, creating new settlements, elephant forests or productive forests, or opening new mines (7.1)." Kautilya wanted to maintain national sovereignty at every cost and by every means available since its loss meant misery and squalor. He believed that a country either would have both prosperity and national security or lose both.

Sources of Revenue

He argued that both the provision of infrastructure and having a larger army were dependent on tax revenue, which, in turn, was dependent on the level of income. Kautilya understood the importance of tax revenue. He wrote, "All state activities depend first on the Treasury. Therefore, a king

shall devote his best attention to it. A king with a depleted treasury eats into the very vitality of the citizens and the country.” Kautilya suggested that a king start his day by receiving ‘reports on defence, revenue and expenditure.’ Any government, which follows Kautilya’s following principles of taxation, will bring prosperity to the people and will never face financial crisis.

- (i) He suggested ways to increase the tax base and not the tax rate to increase revenue. He was against putting any excessive tax burden on the people. For example, he suggested for the king, “He shall protect agriculture from being harassed by [onerous] fines, taxes and demands of labour (2.1.37).” Similarly, he did not want the tax collectors to be overzealous and collect only what was due. He wrote, “He who produces double the [anticipated] revenue eats up the *janapada* [the countryside and its people, by leaving inadequate resources for survival and future production] (2.9).”
- (ii) Kautilya’s insights into compliance issues are remarkable. According to him, ignorance of the work, neglect of duty, timidity, corruption, arrogance and greed on the part of tax officials were the main factors for causing the loss of revenue. Clearly, Kautilya emphasised both honesty and efficiency.
- (iii) He noted that it was not easy to detect corruption. He stated, “Just as it is impossible to know when a fish moving in water is drinking it, so it is impossible to find out when government servants in charge of undertakings misappropriate money (2.9).” He added, “It is possible to know even the path of birds flying in the sky but not the ways of government servants who hide their [dishonest] income (2.9).” Kautilya suggested heavy penalties on those officials, who misappropriated revenue. He suggested, “Those officials who have amassed money [wrongfully] shall be made to pay it back; they shall be transferred to other jobs where they will not be tempted to misappropriate and be made to disgorge again what they had eaten (2.9).” On the other hand according to Kautilya, “An officer who accomplishes a task as ordered or better shall be honoured with promotion and rewards (2.9).”
- (iv) It appears that Kautilya did not recommend any punishment for bribing. Since he considered the people more like victims. In fact, he suggested compensating them for their losses. He wrote, “A proclamation shall then be issued calling on those who had suffered at the hands of the [dishonest] official to inform [the investigating officer]. All those who respond to the proclamation shall be compensated according to their loss (2.8).” That could be

an effective way to combat corruption since the person, who is forced to bribe might be more than willing to provide some solid evidence against the corrupt officials. The current law by treating both the giver and the receiver of bribes as criminals unnecessarily protects the corrupt officials.

- (v) He recommended that some enterprises, such as liquor sales, betting and gambling be run by the Government to generate some surplus to complement the tax revenue. He wrote, "Income due to profit on sales; increase in the price of a commodity at the time of sale, profit from the use of differential weights and measures and increased income due to competition from buyers (2.6)." Kautilya would not, under any circumstances, have approved the continued operation of public undertakings draining tax revenue by generating huge losses.

Kautilya on Growth-oriented Government Expenditures

Two points are noteworthy. First, according to Kautilya, most of the tax revenue should be used to the provision of infrastructure. He wrote, "The [total] salary [bill] of the State shall be determined in accordance with the capacity [to pay] of the city and the countryside and shall be [about] one quarter of the revenue of the State (5.3)." It implies that according to Kautilya, India will get more mileage out of the tax revenue by constructing a few additional miles of highway than squandering resources on overstaffed government offices and some outdated and unproductive institutions/organisations, such as Planning Commission. Second, Kautilya emphasised the need for tax incentives to encourage investment. However, those were very few and only for a very short duration. He suggested:

- (i) Tax Holidays: "Any one who brings new land under cultivation shall be granted exemption from payment of agricultural taxes for a period of two years. Similarly, 'for building or improving irrigation facilities', exemption from water rates shall be granted (3.9)."
- (ii) Subsidised Loans: "[On new settlements] the cultivators shall be granted grains, cattle and money which they can repay at their convenience (2.1)."
- (iii) Exemption from Import Duty: "Any items that, at his discretion, the Chief Controller of Customs, may consider to be highly beneficial to the country (such as rare seeds)" (2.21) are to be exempt from import duties.

Kautilya on the Need for a Bureaucratic Setup

Kautilya understood the concept of ‘bounded rationality’ and consequently the need to set up a bureaucracy. He observed, “A king can reign only with the help of others; one wheel alone does not move a chariot. Therefore, a king should appoint advisers as councilors and ministers and listen to their advice (1.7).” He assigned the role of executing king’s orders to the ministers. He stated, “The ministers shall [constantly] think of all that concerns the king as well as those of the enemy. They shall start doing all that has not [yet] been done, continue implementing that which has been started, improve on works completed and, in general, ensure strict compliance with orders. The king shall personally supervise the work of those ministers near him. With those farther away, he shall communicate by sending letters (1.15).”

Kautilya listed the ‘responsibilities of a minister’ as: “All state activities have their origin in the minister, whether these be the successful execution of works for [the benefit of] the territory and the population, maintenance of law and order, protection from enemies, tackling [natural] calamities, settlement of virgin lands, recruiting the army, revenue collection or rewarding the worthy (8.1).”

Kautilya’s Approach to Elicit Honesty and Efficiency from Bureaucrats

Kautilya’s insights into human nature and how to design services and sanctions to elicit honesty and efficiency from bureaucrats are remarkable. He identified the problem of moral hazard (i.e., the problem of shirking) and suggested payment of efficiency wages and supervision. He wrote, “The king shall have the work of Heads of Departments inspected daily, for men are, by nature, fickle and, like horses, change after being put to work. Therefore, the King shall acquaint himself with all the details of each Department or undertaking, such as—the officer responsible, the nature of the work, the place of work, the time taken to do it, the exact work to be done, the outlay and the profit (2.9).”

Qualifications of a Councilor

Kautilya expected a councilor to be of impeccable character and with unique qualities. Kautilya wrote, “A native of the country, of noble birth, easy to hold in check, trained in the arts, possessed of the eye (of science), intelligent, persevering, dexterous, eloquent, bold, possessed of a ready wit, endowed with energy and power, able to bear troubles, upright, friendly, firmly devoted, endowed with character, strength, health and spirit, devoid of stiffness and fickleness, amiable (and) not given to creating animosities—these are the excellences of a minister (1.9).”

According to Kautilya, a person must be a native of the country to qualify for any powerful position. It requires no hard thinking in figuring out as to how many of the ministers in the present scenario in our country, would have been retained by Kautilya.

Kautilya Linked Pay to Performance and Qualifications

According to Kautilya, compensation should be based on qualifications, experience and effort. Kautilya stated, “Those who have all the qualities are to be appointed to the highest grade (as Councilors), those who lack a quarter, to the middle grades and those who lack a half, to the lowest grades (1.9).” He suggested, “Salaries and wages of any individual employee, permanent or temporary, shall be fixed in accordance with the above principles, taking into account each one’s level of knowledge and expertise in the work allotted (5.4).” Kautilya insisted on efficiency and honesty. Kautilya stated, “Every man shall be judged according to his ability to perform [a given task] (1.8).”

Caste system was not that rigid during Kautilya’s times. For example, he stated, “Envoys therefore speak as they are instructed to, even if weapons are raised against them. The shastras say that even if an envoy is an outcast, he shall not be killed (1.16).” Similarly, B.R. Ambedkar (1891-1956) wrote, “This country has seen the conflict between ‘ecclesiastical law’ and ‘secular law’ long before Europeans sought to challenge the authority of the Pope. Kautilya’s *Arthashastra* lays down the foundation of secular law in India; unfortunately ecclesiastical law triumphed over secular law.” The following table may be used to express Kautilya’s ideas.

TABLE 3.2

Administration (Politicians and Bureaucrats)

	<i>Efficient</i>	<i>Inefficient</i>
Honest	Most Desirable	Moral Dilemma
Dishonest	Tolerable	Least Desirable

Kautilya insisted on efficiency and honesty for maintaining independence and creating prosperity. He specified qualifications for each job. Although he showed a lot of compassion for the disadvantaged but it is unlikely he would have approved the quota system in any form or shape. He advised that a king should take care of his subjects like a father takes care of his children. He wrote, “Whenever danger threatens, the king shall protect all those afflicted like a father [protects his children] (4.3).” He added, “He shall, however, treat leniently, like a father [would treat his son], those whose exemptions have ceased to be effective (2.1).” Kautilya

suggested, “King shall maintain, at state expense, children, the old, the destitute, those suffering from adversity, childless women and the children of the destitute women (2.1).”

Incidentally, it may be noted that during 1950s there was both, honesty and efficiency. Other than the police and the irrigation department, most of the employees were honest. Similarly, most of the politicians were honest. However, during the 1960s and 1970s, many bureaucrats and politicians became corrupt but still relatively speaking were efficient. But over the last 25 years, our Prime Minister and the President are all alone. A large majority of bureaucrats and politicians are both inefficient and dishonest. Kautilya relied on an efficient and honest intelligence service. Thus, in our context, unless the investigating agencies like the CBI and the courts functioned with due autonomy, honesty, efficiency and boldness, improvement in governance would have no chance. The CBI should investigate not only the past Chief Ministers but also the current Chief Ministers, Income Tax Officers and many others, who are amassing wealth at an unprecedented rate.

Accountability

Significantly, Kautilya was concerned, at least to some extent with accountability. For example, he recommended specifically the listing of revenue collected from ‘fines paid by government servants’ and ‘gifts’. He also wrote, “Expenditure will be classified according to the major Heads, as given below: The Palace [expenditure of the King, Queens, Princes etc.] (2.6).” He added, “Every official who is authorised to execute a task or is appointed as a Head of Department shall communicate [to the King] the true facts about the nature of the work, the income and the expenditure, both in detail and the total (2.9).”

Judicial Fairness

Kautilya wrote, “A king who observes his duty of protecting his people justly and according to law will go to heaven, whereas one who does not protect them or inflicts unjust punishment will not. It is the power of punishment alone, when exercised impartially in proportion to the guilt, and irrespective of whether the person punished is the King’s son or an enemy, that protects this world and the next. (3.1).” He elaborated on this theme as thus: “Whoever imposes just and deserved punishment is respected and honoured. A well-considered and just punishment makes the people devoted to *dharma*, *artha* and *kama* [righteousness, wealth and enjoyment]. Unjust punishment, whether awarded in greed, anger or ignorance, excites the fury of even [those who have renounced all worldly attachments like] forest recluses and ascetics, not to speak of

householders. When, [conversely,] no punishment is awarded through misplaced leniency and no law prevails, then there is only the law of fish [i.e., the law of the jungle] (1.4).”

Ethics and Governance

Kautilya considered moral values as a means to prosperity in this world and to paving the way to heaven after death. He asserted, “For the world, when maintained in accordance with the *Vedas*, will ever prosper and not perish. Therefore, the king shall never allow the people to swerve from their *dharma*.” He added, “For, when *adharma* overwhelms *dharma*, the King himself will be destroyed.”

The insights contained in *The Arthashastra* are as relevant today as they were in his time and thus making it an ageless contribution. He truly possessed a modern outlook in formulating such universally relevant principles. According to Kautilya, so long as no effective remedy, legal or political, is devised to contain the extortionary tactics of the corrupt elected officials, India could not achieve her full potential. Since corrupt officials encourage socially unproductive, rent-seeking activities, distort the incentive system and discourage honesty, efficiency and hard work.

Second, Kautilya pointed out that one should always keep in mind that sometimes the effects of a policy might be irreversible, and therefore one should be farsighted as well as foresighted in formulating a policy.

Third, Kautilya proposed efficient, mutually reinforcing and consistent formulation and coordination of fiscal, labour, trade, judicial and foreign policies to promote prosperity, national security and fairness. His systemic approach should be used as the basis of current reforms in India. For example, according to him, economic efficiency depended on appropriate economic (including international trade) policies, judicial fairness, and ethical values. Therefore, along with economic reforms, judicial and political reforms might be necessary to achieve economic efficiency. How can a nation achieve economic efficiency when there are hardly any meaningful sanctions against economic crimes, such as tax evasion, adulteration, bribery, and extortion? Justice to a large extent is for sale and may be labeled as ‘green justice’.

Fourth, according to Kautilya, maintenance of law and order was a prerequisite for creating prosperity. He observed, “By maintaining order, the king can preserve what he already has, acquire new possessions, augment his wealth and power, and share the benefits of improvement with those worthy of such gifts. The progress of this world depends on the maintenance of order and the [proper functioning of] government (1.4).” Kautilya added, “Government by Rule of Law, which alone can guarantee

security of life and welfare of the people, is, in turn, dependent on the self-discipline of the king (1.5). Also, according to Kautilya, every important task must get an undivided attention. For example, he stated, "If the [amount of actual cash in the] treasury is inadequate, salaries may be paid [partly] in forest produce, cattle or land, supplemented by a little money. However, in the case of settlement of virgin lands, all salaries shall be paid in cash; no land shall be allotted [as part of the salary] until the affairs of the [new] village are fully stabilised (5.3)." Clearly, according to Kautilya, supervision of a settlement of virgin lands required undivided attention. He reasoned if the officers were allowed to work on the land, most likely they would have spent very little time on the official duties and disproportionately more time working on the land, and thus, ignore their primary responsibilities.

The Deputy Commissioner of a district, who has a longer list of responsibilities than perhaps that of God, should be concentrating just on maintaining law and order, which has been worsening over the years. Moreover, the private sector (including the farmer) has become quite entrepreneurial and the many layers of State officials are there to create only hurdles in the developmental work. In fact, many other offices need a review. For example, the only role State Governors seem to play is to destabilise democratically elected governments. A Chief Judge of the high court can perform the oath taking ceremony. Unfortunately, these bureaucratic structures are more durable than the stainless steel structures in India.

References

- Kautilya, Vishnugupta [4th Century BCE] (1992). *The Arthashastra*. Edited, Rearranged, Translated and Introduced by L.N. Rangarajan. New Delhi: Penguin Books.
- . [4th Century BCE] (2000). *The Kautilya Arthashastra*, Part II. An English Translation with Critical and Explanatory Notes, Second Edition, R.P. Kangle (ed.). Delhi: Motilal Banarsidass.
- Sihag, Balbir S. (forthcoming). "Kautilya on Moral and Material Incentives, and Effort", *History of Political Economy* (appearing next year).
- . (forthcoming). "Kautilya on Administration of Justice during the Fourth Century BCE", *Journal of the History of Economic Thought* (accepted)
- . (forthcoming). "Kautilya on Institutions, Governance, Knowledge, Ethics and Prosperity", *Humanomics* (accepted)
- . (2005). "Kautilya on Ethics and Economics", *Humanomics*, Vol. 21(3/4): 1-28.
- . (2005). "Kautilya on Public Goods and Taxation", *History of Political Economy*, Vol. 37(4): 723-751, Winter.
- . (2004). "Kautilya on the Scope and Methodology of Accounting, Organizational Design and the Role of Ethics in Ancient India", *Accounting Historians Journal*, Vol. 31(2): 125-148.
- The following five articles on Kautilya to appear in a Special Issue of *Humanomics*:
- . "Kautilya on Economics as a Separate Science".
- . "Kautilya as a Forerunner of Neo-classical Price Theory".
- . "Kautilya on Principles of Taxation".
- . "Kautilya on International Trade".
- . "Kautilya on Law, Economics and Ethics".

4

Governance in India*

The questions of good governance, of honesty and of transparency in our system of public administration have been at the centre of our political discourse for a long time. A comprehensive strategy, therefore, must be devised to reduce the scope for corruption, while, at the same time, providing space for individual initiative and action. The following issues against corruption in public life must be addressed in order to curb the menace:

First and foremost, the need for an integrated approach to dealing with corruption must be recognised. Agencies like CBI, CVC and Anti-corruption Bureaus cannot operate in isolation. They must have the resources to take a broader view of individual cases and be able to make a distinction between a 'bonafide mistake' and deliberate 'wrong-doing'.

Second, all discretionary controls and the scope for discretion in the control and regulatory systems, that cannot be dispensed with, must be eliminated.

Third, must reform the tax system to make it simple and transparent, and to ensure moderate rates of taxation that enable widest possible compliance. This remains an area where most citizens encounter corruption.

Fourth, the justice delivery system has to be modernised and made more efficient and speedy. Not only must the guilty be brought to book more speedily, the innocent must be spared the trauma of delayed justice. The assurance of integrity within the judiciary is itself a deterrent against corruption in public life. Hence, prompt action against corruption in the judiciary, at all levels, is also a necessary element of the battle against corruption in other institutions of the State.

* Based on the Prime Minister Dr. Manmohan Singh's Keynote Address to Conference of CBI & State Anti-Corruption Bureaus held in Delhi on November 20, 2006.

Fifth, the reform of public procurement systems, both civil as well as defence, with complete transparency in the tendering processes at all stages with publicly recorded discussions is also an integral element of a comprehensive strategy to fight corruption.

Sixth, the Right to Information Act has to be effectively utilised so that it will not only act as a deterrent but also empower citizens to bring to light any act of corruption. In fact, non-governmental organisations and concerned groups of citizens can and should use the RTI Act to combat corruption in public life.

It is also felt that Public Services Users Associations can also play an active role in ensuring delivery of such services without corruption. We need a Citizen's Charter that states explicitly the rights of tax payers and consumers of public services. A citizen holding a ration card should be able to secure his entitlement without recourse or resort to corruption.

Seventh, the decentralisation of administration and the delivery of justice can help in reducing corruption by making the system more accountable to the people they have to serve. Be it municipal authorities or public utilities, be it school teachers or doctors, whatever the service provider be, greater community scrutiny and decentralisation of administrative control can act as a deterrent against corruption.

In the final analysis, however, there is no better protection against corruption in public life and in public services than an alert civil society. The Government has empowered civil society through the Right to Information Act. However, it is public minded individuals, NGOs, and the media who have to take the initiative to mobilise people against corruption.

5

Governance*

Make the System Responsive

The British ruled India to further their imperial interests. They left behind a seriously impoverished economy—a feudal agrarian sector and a fragile industrial base, which contributed to large-scale unemployment, abysmally low incomes, widespread poverty and illiteracy. Since Independence our country has achieved significant successes on several fronts. Following the colossal upheaval caused by Partition, the government, despite severe constraints, worked devotedly to restore public order and resettle millions of refugees.

Faced with a near famine situation, the administrative apparatus effectively managed thousands of ration depots to distribute essential supplies.

Post 1947, India was faced with an acute financial crisis and grave challenges on varied fronts. Nonetheless, in the early years, serious problems were tackled and fair progress was achieved in addressing the complex tasks of nation-building.

There was realisation that orderly change and sustained stability would act as a shield against social unrest and violence. This led to the high emphasis on people's participation and implementation of community development projects to reduce poverty and unemployment and lay the foundations for achieving equitable growth.

This period witnessed the expansion of education and health facilities; enforcement of land reforms; establishment of universities and centres of scientific, technological and agricultural learning and research; expansion

* N.N. Vohra, former Union Home and Defence Secretary and the Principal Secretary to the Prime Minister.

of roads and railways and public transport networks; construction of huge dams and extension of irrigation systems which paved the way for the success of the Green Revolution and attainment of self-sufficiency in the production of foodgrain, perhaps the most outstanding achievement, worldwide, in the last century.

Sustained Progress

Attention was also devoted to increasing production of steel, cement and power and launching initiatives to generate nuclear energy. During this period, the country faced four external aggressions and our Armed Forces performed valiantly, except in the Sino-Indian conflict. In short, while serious gaps remained on several fronts, our country was, overall, well set on the path of sustained progress.

This article cannot go into details of the reasons why and when we started failing. Briefly, it can be said that governance had far fewer failures in the early decades, essentially because our first generation political leaders, who had made large personal sacrifices during the freedom struggle, were persons of proven integrity, committed to higher values and national perspectives. Enjoying the trust of the people and respect of the public services, they were able to effectively direct the affairs of the state.

In subsequent years, even before the enforcement of Emergency (1975-1977), internal feuds and power politics had overtaken commitment to the vital tasks of governance. This period also saw the emergence of a new breed of 'committed' civil servants and coterie of extraconstitutional elements joining the political bandwagon, causing severe damage to Rule of Law and the Constitution.

The failure of national-level political parties and the mushrooming of regional and sub-regional groupings led to splintered electoral outcomes. The consequent emergence of coalition governments, in the states and later at the Centre, generated political instability which had an adverse impact on governance. The new commitment to seize and hold political power at any cost saw the emergence of a frightening nexus between corrupt politicians and public servants and unlawful elements in society.

From around the 1990s there were a series of exposures of scandals relating to large-scale defalcations, embezzlements and cases of corruption among which were the fodder scam, the hawala case and the Bofors and submarine deals. These scams involved serious allegations against chief ministers and their ministers, ministers at the Centre and even prime ministers, besides serving and retired senior functionaries.

In the recent years, a growing number of IPS and IAS officers, including several director-generals of police (DGPs) and chief secretaries (CSs), have

also been prosecuted in cases involving gross abuse of authority, corruption and criminal offences. Even the Armed Forces have been infected, as witnessed by the Tehelka scandal.

Tainted Setup

Governance has suffered because of the progressive deterioration in the functioning of the executive, the state legislatures and Parliament; the subordinate judiciary has long been tainted and malfunctioning; recently, fingers have begun to be raised even at the higher judicial echelons.

Despite the enveloping gloom, the country has been achieving progress on several fronts. However, our serious failure to achieve human development goals and equitable growth has vitiated the pace of our national advancement and, after nearly six decades of freedom, we still have around 25 per cent of our population subsisting below the poverty line.

The endless debates on the failures in our governance have, *inter alia*, pointed to: a fractured polity and multi-party governments being incapable of enforcing the much-needed measures to provide good governance; deficiencies in the electoral system, which permit entry of corrupt/criminal elements; appalling inefficiency and unaccountability of the administrative apparatus all over the country; and widespread corruption at the political and administrative levels.

There have been continuing demands for urgent reforms being enforced on all fronts, particularly in regard to the role and responsibility of the police and public services.

Our Prime Minister, Dr. Manmohan Singh, architect of economic reforms in the early 1990s, is most seriously concerned about the crucial connectivity between the quality of governance and the pace at which human and economic development can be attained. He has already established an Administrative Reforms Commission and the process is underway for establishing a new Centre-State Commission.

The Prime Minister has taken the exceptional initiative of holding separate meetings to meet and hear all the district magistrates and superintendents of police in the country. Action is also being taken to introduce the required electoral reforms and to enact the Lok Pal Bill, which has been pending for well over three decades now.

While, hopefully, the aforesaid and other initiatives being meditated by the Prime Minister would engender a fruitful outcome, the most urgent attention would need to be given to improving governance in the states as they have the fundamental responsibility for promoting the welfare of our billion plus people, the vast majority of whom live in villages.

In this context, it is relevant to particularly focus on the state of affairs in the districts where hundreds of functionaries, representing different departments and agencies, are deployed, village-level upwards, to deliver developmental and regulatory services.

Public Services

In discussing the vital importance of effective district administration it may be recalled that, not long ago, the entire band of employees were totally answerable to their district heads, and the deputy commissioner (DC) or district magistrate (DM) exercised effective supervisory control over the entire district establishment. The district superintendent of police (SP) also worked in close coordination with the DC/DM, while being unfettered in his day-to-day management of law and order.

It is a matter of serious concern that, over the years, the aforesaid situation has changed beyond recognition. In most states, the CSs and DGPs do not have any say even in recommending the officers to be posted as DCs/SPs; likewise the secretaries and their heads of departments have limited say, if at all, in the appointment of district and regional heads of their departments. Almost as a rule, all postings and transfers of DCs, SPs and district-level departmental officers are decided in the chief minister's secretariat which is perennially engaged in dealing with the unending requests received from local MLAs, MPs, influential business elements and others who claim to be supporters of the political parties in office.

In such a scenario, when even *patwaris* and constables are transferred by the state revenue and home ministers, respectively, and likewise for all other employees, the very basis of holding the district-level officers, particularly the DC/DM and SP, accountable, has been totally shattered. Employees, at all levels, who enjoy patronage and direct links with the political hierarchy, owe loyalty only to their political masters. This has contributed to the much-lamented spread of indiscipline, non-performance, unaccountability and corruption.

A consequence of this situation is the daily transfer of scores of functionaries, particularly DCs and SPs, for having failed to deliver on the political behests conveyed to them, in many cases by the very person who seeks an unauthorised or even an unlawful decision to further his interests. This is not all.



Large-scale transfers also take place, at all levels, throughout the year and particularly during a change in government when, besides 'loyalty', high consideration is given to the caste or community and even the political affiliation of the favoured functionary. This unending spate of transfers has a most damaging effect on the timely implementation of crucial developmental schemes and, equally worrying, the sudden shifts of SPs virtually ensures against the effective maintenance of public order.

In this alarming state of affairs an ever-increasing number of young, talented and professionally motivated officers, including those who join the All-India Services, are realising that they have limited options. Such among them who chose to adhere to the rulebook are soon categorised as 'inept' and 'unsuitable' for responsible assignments, particularly in the districts where 'flexibility' is the essence of survival.

Being sidelined, frequently transferred, publicly humiliated and even made to face charges of one or the other kind, a certain percentage of such officers shed their idealism, become cynical and join the bandwagon.

In this scenario outlined above, it is a moot question whether the rot which has set in can, at this stage, be stemmed from within. The short answer is that such an eventuality is unthinkable. Essentially so because the public services comprising the state administrative machinery—which delivers governance—is no longer a cohesive body. The erstwhile apparatus stands liquidated.

The various service cadres are no longer guided, advised and led by their superior administrative authorities, who used to be looked upon as role models. The CSs and DGPs are no longer in a position to protect their flocks who are left to seek their own solutions which, in most cases, involve the development of extra-constitutional loyalties and consequential irrevocable damage to administrative functioning as per established rules, policies and the law.

Irrespective of the high success which may be secured in attracting foreign investments and speeding up the pace of our economic growth, the country will continue to lag behind till we achieve near full success in the efficient and timebound implementation of vital human development programmes to promote literacy, health, housing, safe drinking water etc. and, side by side, employment generation and rapid reduction in the existing poverty levels.

Thus, briefly, while due attention continues to be devoted to macro issues we just cannot afford to any longer delay fully restoring efficient and honest functioning in the districts, where our people live and where all the vital development programmes concerning their welfare are executed.

Internal Security

Sustained development cannot be achieved in a disturbed environment. It is, therefore, of extreme importance that law and order is effectively maintained across the length and breadth of our country. The maintenance of internal security is also vital to attracting increased investments from external sources.

While various well-considered measures would be required to improve governance on all fronts, we cannot, as the very first step, lose any more time in ensuring that the entire band of the over 20 million functionaries, comprising the public services in our country, discharge their duties efficiently and honestly and, side by side, the police organisations in the states are enabled and allowed, without any interference whatsoever, to effectively maintain law and order.

This is not an easy task. It cannot be tackled unless the political hierarchies in the states are educated, persuaded and, if necessary, even coerced to urgently reorient their functioning to speedily commence delivering good governance. Among many other problems, it is this political challenge which our Prime Minister must face and resolve. There is no more time to be lost.

6

Transparency in Governance*

Corruption is the concern of our society, our youth and, of course, government also. It is commonly recognised that corruption can be tackled through good governance. A good government shall never permit its officials to indulge in corrupt practises and harass the people. Besides, a corruption-free bureaucracy will provide good governance of integrity, efficiency, effectiveness, responsiveness and accountability.

Citizen-friendly Transparency

Good governance is being recognised as an important goal by many countries across the world. Many nations have taken up specific initiatives for open government. Freedom of information is being redefined and supported by detailed guidelines. Along with this, there is a conscious effort to put the citizen as the centre of focus of the governance. Citizens are being perceived as customers and clients. Delivery of services to citizens is considered as a primary function of the government.

The Internet revolution has proved to be a powerful tool for good governance initiatives and the world is moving towards Internet governance. An important dimension of the Internet potential is the possibility of providing services any time anywhere. Particularly in a democratic nation of a billion people like India, e-Governance should enable seamless access to information and seamless flow of information across the state and central government in the federal setup. E-governance has to be citizen friendly. Smart card is the core of e-governance.

* Based on the President of India Dr. A.P.J. Abdul Kalam's Address at the Biennial Conference of Anti-Corruption and Vigilance Bureaus of States & UTs and Officers of the CBI held in New Delhi on Nov. 20, 2006.

Perquisites for Transparency

Training and Empowerment

Need-based services like police, judiciary, income tax, land administration and municipal services have been found to be the key problem areas, apart from many more. There is a need to train the personnel working in these services about the importance of providing hassle free services to the citizens. They should be specially trained to be citizen friendly. Personnel working in these departments must be provided with reasonable housing and transportation facilities, including empowerment in their task. They should become accountable for the services to be provided to the citizens and also be penalised for wrong decision. We can also consider training the personnel at the grassroot level in some of the advanced countries so that they can get a first hand feel of how these services are being provided in different countries. These measures will improve the quality of services being provided to the citizens and the perception about these departments. Bureaucrats should become facilitators.

Law Enforcements

The components that influence transparent society are: Corruption detection, Fast police action, Court proceedings with minimal adjournments, Fast judgments and there must be provision for punishing the biased allegations bringing accountability into the system. All these processes should be completed within a prescribed time frame and all the pending cases in the court, particularly pertaining to corruption, special crimes and economic offences, should be cleared in a time bound manner by setting up more special courts throughout the country.

An Independent Commission against Corruption

Some 40 years back, Hong Kong had been described as what we witnessed in many areas in Indian scene. But today Hong Kong is free from corruption. This is attributed mainly to their one action, i.e., establishing a powerful independent commission against corruption. The independent commission has worked on three pronged approach: (i) strict enforcement of stringent laws, (ii) prevention of corruption, and (iii) community participation against corruption through continuous education.

Contrarily, the common man feels that there is a lack of political accountability in India. The criminalisation and 'compulsions' of coalition politics, and systemic weaknesses in corruption/grievance redressal machinery are the most important reasons for sustaining corruption in the

country. Further, corruption is perceived more as a result of monstrous greed allowed sanction by corrupt politicians and a weak, apathetic and unaccountable government machinery—all these elements reinforcing each other. The existing anti-corruption institutions are also not very effective as they are under the control of the politicians, lacking real teeth and powers, and not having the strength of officers with impeccable integrity. Besides, these institutions face problems with regard to paucity of staff and non-filling up of the vacancies, etc.

Transparent Administration

According to Er. Ajit Mahapatra,* government must believe in transparency and target to weed out corruption in public places. Transparency can never be tackled in isolation. It is a part of five softer components, which are heavily interlinked. They are:

1. Social Openness: The more open a society is; the more transparent its activities are.
2. Society's respect and commitment to education and training: The education system should incorporate a sense of moral values at all levels. All type of training must be value-based.
3. Relative honesty and transparency in business/government relation: The collusion between government and business at the expense of efficiency and effectiveness, stifles the free expression of human spirit and creativity, resulting in a corrupt society. This type of activities must be opposed openly.
4. Strong legal framework: Such framework to provide consistency and predictability, and time-bound action, allowing business to focus on what it does best and in the best way.
5. Admiration for risk takers: The people, in general, must learn to admire those who take risks and spearhead innovation, who see opportunity despite tremendous odds. The society has to take such people as their role models and follow their style, which are never based on corruption.

From the above, one could realise that 'transparency in governance' is only one of the components which cannot be tackled in isolation. All the other components are to be tackled simultaneously to get the desired results. So the holistic nature of these components and resulting synergy created thereof, can only fight corruption in common places.

*: Er. Ajit Mahapatra is a National Award winner, Engineer-Industrialist, Kalinga House, Rasulgarh, Bhubaneswar-751010

To sum up, the 'vigilant citizens' could shake up the bureaucracy by making it duty conscious and accountable. Unless the public servants are made afraid of being questioned, they shall never improve and perform and corruption shall continue to thrive. Therefore, the citizens must act—either on their own or with the help of NGOs.

Part – II

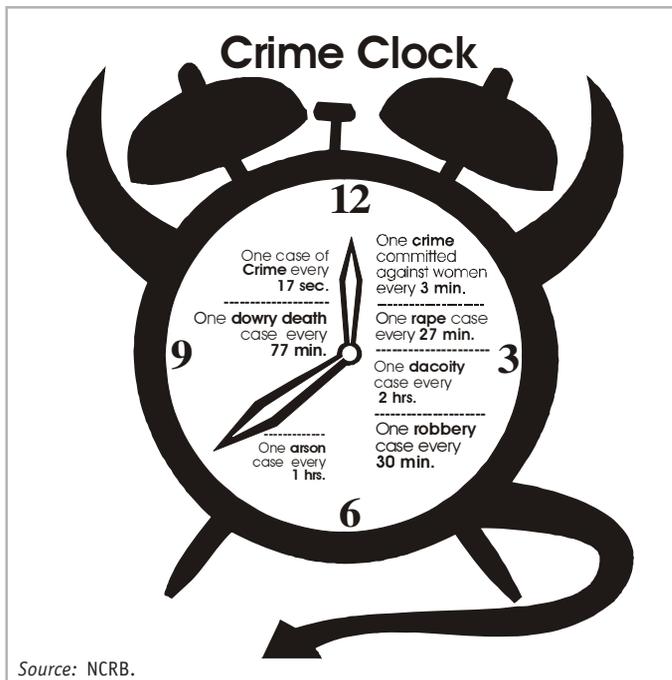
Governance in Monopolistic Services

7

Police Governance

The proper function of a government is to make it easy for the people to do good and difficult for them to do evil.

— Gladstone



The powers given by the state to the police to use force have always caused concern. Generally, police governance is considered to be full of negligence of its duties and corruption in its ranks—resulting in widespread crime and lawlessness. Such governance is defined as the abuse of police authority for personal and/or organisational gain. This comes in many shapes and sizes, from the major drug trafficking and money laundering to regular minor violations of the law. Although some improvements have been made to control corruption in police, still numerous opportunities exist for deviant and corrupt practices. The opportunity to acquire power in excess of that which is legally permitted or to misuse power is always

available. The police culture is a contributing factor to these practices, because officers who often act in a corrupt manner are often overlooked, and condoned by other members of the culture.

Methodology

Essentially, police corruption falls into two major categories—external corruption, which concerns police contacts with the public, and internal corruption, which involves the relationships among policemen within the

works of the police department. The external corruption generally consists of one or more of the following three activities:

- 1) Payoffs to police by essentially non-criminal elements who fail to comply with stringent statutes or city ordinances; (for example, individuals who violate traffic laws).
- 2) Payoffs to police by individuals who continually violate the law as a method of making money (for example, prostitutes, narcotics addicts & pushers, and professional burglars).
- 3) 'Clean Graft' where money is paid or courtesy discounts are given to police for services.

Police officers are perceived to have been involved in activities such as extortion in order to avoid arrest and harassment. They have failed to take proper enforcement action. They have entered into personal associations with criminals. They have given false testimony in court in order to obtain dismissal of the charges against a defendant. As such, a scandal is perceived both as a socially constructed phenomenon and as an agent of change that can lead to realignments in the structure of power within organisations.

In this paper, we have concentrated only on external corruption because it has been affecting the common man and it is usually viewed as the misuse of authority by a police officer acting officially to fulfill personal needs or wants. For a corrupt act to occur, three distinct elements must be present simultaneously: (i) misuse of authority, (ii) misuse of official capacity, and (iii) misuse of personal attainment. It can be said that power inevitably tends to corrupt, and it is yet to be recognised that, while there is no reason to suppose that policemen as individuals are any less fallible than other members of society, people are often shocked and outraged when policemen are exposed violating the law. The reason is simple. There defiance elicits a special feeling of betrayal. General police deviance can include brutality, discrimination, sexual harassment, intimidation, and illicit use of weapons. However, it is not particularly obvious where brutality, discrimination, and misconduct end and corruption begin.

As regards the growth of community policing, the back-to-the-beat philosophy in recent years has been returning officers to neighbourhood patrol in cities around the country. Getting to know the neighbourhood can mean finding more occasions for bribe taking, which is one reason that in many places beat patrolling was scaled back.

Corruption Control

There have been attempts world over to check corruption in police. Strategies considered can be put under four headings: human resource

management; anti-corruption policies; internal controls; and, the external environment & controls.

Human Resource Management includes the amendment in the existing recruitment; training/ethics; professional pride; and, police management responsibility. The 'police management responsibility' can be inculcated by developing a sense of integrity through holding police commanders and supervisors personally accountable for combating corruption in their commands.

Anti-corruption Policies involve codification of standards of expected ethical behaviour and their compliance to maintain ordinary moral decency.

Internal controls are of two types: 'preventive' and 'punitive'. The latter is to deter malpractices and corruption through detection and punishment of wrongdoing. The former refers to those policies, which enforces internal accountability; tight supervision; and, the abolition of procedures that encourage corruption to seek changes in organisation's ways to prevent corrupt practices.

The External Environment and External Controls: There are considerable pressures, particularly from the high-ups and the politicians, on police agencies to become corrupt. In this view, changes in enforcement policies may be effective. Another approach is to encourage the public to be more vigilant and more willing to report suspicions of corruption. Perhaps the greatest obstacle to reforming a corrupt police department is the existence of a corrupt political environment.

POLICE GOVERNANCE IN INDIA

Ensuring a thorough initial investigation plays a vital role towards securing a conviction. Unfortunately, many cases are stymied at an early stage through ineffectual and opaque police work leading to the negligent omission of crucial details and evidence rendered inadmissible in court. The myriad deficiencies of the police are obvious. However, what is less obvious is that the police force is hugely overstretched and under-resourced to deal efficaciously with the sheer volume of cases that arise. As a result, large groups of corrupt police are caught on charges of taking bribe on a regular basis in one part or the other part of the country. According to *India Corruption Study 2005*, nearly 87 per cent respondents, who had interacted with the police, opined that there was corruption. More than 60 per cent faced difficulties due to their indifferent attitude forcing the citizen to pay bribe to get their work done. The affect of this apathy is magnified by the fact that most interactions with the police happen in stress situations and most of the people are normally unaware about the rules and procedures to

be followed. The indifferent attitude is much more prevalent in states with relatively more staff inadequacy. As such, the people do not even go to complain for the fear of retribution and, therefore, feel obliged to pay bribe. While the increased recurrence of such instances has become a cause for concern for the police administration as well as the public, it appears that this high-profile police force is fast losing its credibility due to dearth of officers who possess the conviction to set things right.

High Work Pressure and Lack of Basic Infrastructure

One of the main reasons for this is that the core issues plaguing the force are not being addressed in a proper manner. Several officers feel that the authorities concerned are not paying heed to their basic needs. "The situation is such that investigating officers, who are already overburdened with cases, are not getting enough funds to carry out probes in a proper manner, leave aside the transportation, communication and other facilities. The provision for reward and punishment is also not functioning well as they involve cumbersome procedures," they claim. Such staff apathy could be either due to high work pressure or sheer lack of training and sensitisation.

Another reason why lower subordinates dare to indulge in corrupt practices is probably because most of the supervisory officers are not carrying out their duty properly. Today, approximately 90 per cent of the police force consists of constabulary. For long, the mindset among authorities has been that an ordinary constable is not meant to think and take decisions. This attitude has worked as a catalyst in making the public interface of the police i.e., the constable, insensitive and indifferent.

Handed over sensitive managerial posts, these officers are entrusted with the task of managing the manpower at their disposal in order to get the best results out of them. As their job in a disciplined setup entails, they should follow the carrot-and-stick policy to keep things in order at every step. But since they are not directly into the business of investigating cases and their prime job is to keep a tab on the activities in their area of work and take corrective measures as and when required, they are neither well-versed nor much concerned about the intricacies and progress of cases under their jurisdiction. As such, prevailing circumstances suggest that most supervisory officers draw a blank when it comes to activities on the ground level and over a period of time they lose their grip on their own men.

While a system of checks and balances has been set up in each district, it has not been able to deter the subordinates from extorting money. With

money ruling the roost, several policemen also wield the clout to extend their tenure on 'lucrative posts' despite having been transferred out.

Despite very high work pressure and lack of basic infrastructure, police personnel of lower ranks are used by superior officers for personal works, which, with increasing workload, reduces the self-esteem of the personnel. There has been political interference and temptations in a variety of forms, ranging from a promise of career advancement and preferential treatment in service matters if the demand is yielded to, and a threat of drastic penal action and disfavoured treatment in service matters if the pressure is resisted.

However, a modern criminal justice system cannot be founded on hope and good intentions alone: A sizeable investment from the government is also required. Therefore, a radical overhaul of the legislation relating to criminal law is necessary to modernise the system. According to an assessment made by BPRD Director General Dr. (Mrs) Kiran Bedi, "Policemen lack equipment, expenditure on training is a minuscule percentage of the total police budget and funds on modernisation go unutilised in most states." Just 16,000 computers spread across 20,000 police stations and outposts—that is not even one per police station. Of the Rs. 19,000 crore of

BOX 7.1

Extract from PM's Address at the Conference of Director Generals and Inspector Generals of Police in New Delhi on October 4, 2007

"That brings me to an important issue which...is of great concern as far as ordinary citizens are concerned. This is the maintenance of law and order on matters, which directly impinge our citizens. This is the bread and butter work of any police force, which can get neglected due to other pressures. Each one of you should ask yourself—what are people's concerns as far as policing is concerned? What do people expect from the police force. And are we effectively addressing their priorities?

"It is my belief that citizens want a secure environment in which to live and carry out their activities. Safety of their bodies and their property is their priority. Their worries centre around petty nuisances, harassment by local criminals or gangs, *goondaism*, *dadagiri*, and in some areas, threats of violence and even kidnapping and extortion. Women and senior citizens are increasingly concerned about their safety. Girls worry about the growing practice of eve-teasing. Parents worry about child abuse. As we get more urbanised, these offences are increasing. White-collar crime too is seeing a rise. Are we then tackling these problems adequately? It is only by addressing these concerns will police forces be able to reach out to citizens and win their confidence and affection. Our people should be willing to approach a policeman with the same assurance with which they visit a doctor. That should be our common endeavour.

"I will conclude by going back to what I said earlier. Seek out the citizen, identify his or her needs and expectations, address them on priority. Try to improve their satisfaction levels. The instruments and methods you decide to choose should be driven by this goal. Our government will support you fully in your endeavours in this noble direction."

police expenditure in 2004-05, only Rs 1.7 crore was spent on training. Since policing is a state subject, the onus for such a state of affairs is on states. There is no dearth of funds since the Centre bears 75 per cent of the modernisation cost. Southern states such as Tamil Nadu have made strides, but the others clearly lag behind. There is a dearth of political will.

Former Punjab Police Chief and now the Security Adviser to the Chhattisgarh Government Mr. K.P.S. Gill also feels, "Any violent uprising is a tremendous strain on resources and manpower. But the equipment is abysmal and the strength of the force has not kept pace with the times...After all, the point is to launch a counter attack and not just have cops defending themselves."

Political interference clips the wings of the force further. Under the Police Act, the Inspector General enjoys full power over the force. But now in some states, even constables are transferred by the Home Department, alleges Mr. Gill. Concurring Mr. Gill's view point, Mr. Ved Marwah opined that the politicalisation of the force is a big problem. Senior officers believe that they are only accountable to the political rulers. In the North-East, the police were neutralised because they followed the "can't beat them, join them" policy. As for countering terror—a war that the whole world is fighting—that will require special laws, training and equipment which encompasses mobility, communication as well as arms. However, 'one set of ad-hoc reforms can't solve any thing.'

Thus, it is essential that accountability of officials at different levels be defined and a degree of immediate proximity to the people and third party intervention introduced. Public hearings could be an effective tool for this purpose, as shown in experiments with other services. A system could be introduced where a few complaints against police are picked up every month (or some pre-decided time interval) for public hearing. The public hearings could be conducted by a panel of retired judges and prominent citizens.

Mrs. Bedi is of the view, "Till the police has a plan for 2010 and 2020, nothing will change. If you need one constable today, you need to have planned for it three years ago. After all, you need to recruit, train and then deploy." But till that happens, the defenders may stay on the defensive. Thus, you have to invest in security. Recruit better and more, spend on training. Only then, it will pay dividends.

Suggestions to Improve Governance

Realising the necessity to inject reforms in the policing system as there has been radical change in the political, social, and economic situation of the country, the Supreme Court of India in a landmark judgement on

September 23, 2006, *inter alia*, directed Centre and the States to file compliance reports by December 31, 2006 in respect of following:

- Officers from Director General of Police (DGP) to Station House Officer (SHO) to have fixed tenure of two years. They can be removed only on conviction in criminal cases.
- Twin police duties—investigation and maintaining law & order—must be separated.
- State Security Commission to insulate police force from political interference. Ironically, CM to head this.
- Police Establishment Board to decide transfers and promotions.
- Police Complaint Authority, headed by a retired judge, to look into accusations against police.
- National Security Commission, headed by Union Home Minister, to select chiefs of Central Police Organisations.
- DGP to be selected from three senior-most officers empanelled for promotion by UPSC.

The above order based on recommendations of various Police Commissions set up since 1977, is expected to insulate the police force from political and extraneous interference considerably. Rejecting the problems stated in implementing the above order, the Supreme Court on January 11, 2007 asked them to cultivate a positive attitude instead of finding faults in the proposed reforms. The Court also remarked that had these reforms been carried out in time, many shameful and ugly incidents, like the one in Nithari, could, perhaps, be averted. Hence, it directed all the State Governments to complete the implementation by March 31, 2007. As a result, the North-Eastern States, Goa, Uttarakhand and Jharkhand have almost fully complied with the court's directions. However, the rest have either compliant partially or tried to circumvent the order. The court was now expected to hear a contempt application.

According to Shri Prakash Singh, former Director General of Police, the setting of State Security Commission, with some special measures to neutralise and marginalise officers who are deeply politicised or have nexus with criminals, would have far reaching impact in reforming the police force. Though there may not be an overnight miracle due to initial resistance, but the policemen will have to consider changing their mindset and become polite and friendly at least. However, there seems to be roadblocks with States having strong reservations against some of the key suggestions like fixed tenures, role of Centre in appointments of DGPs and an accountability commission.

Replacement of Police Act

Meanwhile, the Union Government has set in motion the process to replace the 145-year old Police Act, incorporating the suggestions of the Soli Sorabjee Panel. These may include—a fixed two-year tenure for police officers down the line from DGP to SHO, as well as separation of maintenance of law & order from crime investigation duties, among other reforms. The Model Police Act, drafted by Soli Sorabjee Panel has focussed on professionalisation of the crime investigation function. Its major recommendations relate to:

- Security of Tenure: Minimum tenure of two years for key functionaries.

BOX 7.2

About Police Reforms

“Coming to the urgent need for reforms in the Criminal Justice System, we have the report of the Justice Malimath Committee and also the work being done by the committee under the chairmanship of Dr. Madhav Menon on preparing a “Draft National Policy Paper on Criminal Justice”. I am happy that the Home Minister has initiated actions on these reports. We must move speedily and with determination to make the required changes in the criminal justice system. The criminal justice system should facilitate the creation of a social climate conducive to equitable and effective development and social justice.”

“Broadly speaking, these recommendations are in two categories—one requiring wider discussions and consensus and another that can be implemented in a shorter time frame. I am hopeful that there will be forward movement on a large number of issues such as multiple criminal codes, standard of proof, trial procedures, courts ordering further investigation, admissible confessions, protection of victims and witnesses, etc. I am glad that the Home Minister has chaired a meeting of the Steering Committee of the National Police Mission. This Mission should help us create a new vision for our police forces and bring about a paradigm shift in their functioning and in their working.

“Through this Mission, we need to take a hard look at police functioning. We must make them more accountable, enhance their skills and competency particularly at the grassroots, where people come in contact with our police forces. A culture of excellence must be developed in our police force. We must also make better use of modern science and technology in police functioning, making them more technologically capable and better equipped.

“The Police Mission needs to also study modern policing issues like community policing. I would like the mission to come forward with practical solutions to problems like non-registration of First Information Reports. The Mission may also examine new methodologies of crowd dispersal and develop a more user-friendly police uniform. The Mission must reflect on the new inter-state and transnational ramifications of crime and also study the Centre-State dimension of internal security administration, particularly with respect to what may be called “federal crimes”. I would like our Universities and Law Schools to be associated with these studies. The Home Ministry may consider funding Professorial Chairs and Research Projects in Universities and research institutions to promote research on such important national issues.”

(Extract from PM’s address at the Conference of Director Generals and Inspector Generals of Police in New Delhi on October 4, 2007)

- Merit-based selection and appointment of Director General of Police.
- Creation of State Police Board to lay down the policy guidelines for efficient policing and identifying the performance indicators.
- Establishment Committee to consider transfers and postings, and look into complaints of police officers against any illegal orders.
- Offences by the police: Introduces criminal penalties for common defaults committed by the police, including non-registration of FIRs, unlawful arrest, detention, search or seizure.

Initiatives

Besides, a number of initiatives as listed below have been taken:

- 'With you, for you always' by the Delhi Police to gain public confidence, and improve public relations.
- Training of officials for effective public dealing.
- Training in Yoga, meditation etc., so that officers mind and body are refreshed while they are on duty.
- Use of computer technology to ensure smooth working and transparency (e.g. e-cops in Andhra Pradesh).

Suggestions

However, a need is felt to implement the following suggestions:

Introducing Accountability

In today's scenario, there is very little accountability of police with regard to satisfactory delivery of services like registration of complaints and prompt action on them. Unlike in other services like electricity or telecom, where if a citizen is not satisfied with the complaint redress by the department, it has the option of going to the independent regulator, there exist no such mechanism in case of police.

Responsive and Accountable Local Policing

There are several policing functions that concern the day-to-day life of common citizen and are very local by nature e.g. patrolling, traffic regulations, prosecution for offences like public nuisance or eve teasing. The enforcement of law for these cases could be entrusted to a local force accountable to Panchayat or citizen committees. This local force will have a small area under its jurisdiction, resulting in better interaction and involvement with citizens.

Transparent Transfers and Promotions

Payments of bribes for postings and promotions is a well-known phenomenon in Police department. As a result, the Policemen, who have paid their way through, try to recover the amount as soon as possible. Thus, corruption becomes a tool for obtaining better returns on 'investment.' Sometimes, transfers are also used as a retribution tool against officers as a pressure tactic.

However, if a system could be designed where postings are automatically generated by software after a given time interval for each employee, a big chunk of corruption can be eliminated. Similarly, objective criterion for promotions could be articulated and publicised so that individual judgement plays a limited role in promotions. This will reduce the need for bribes in order to get promotions or transfers.

Performance Monitoring

Establishing a system for monitoring the performance of police can substantially increase the accountability of the force. Objective performance and efficiency indicators can be chosen and tracked to monitor the performance of the Police force. This will lead to having clear improvement goals for the force on objective and measurable parameters.

Minimising Political Interference—Greater Functional Independence

As advocated by National Police Commission, a Chief of Police of a State should be given a fixed tenure of office so as to encourage functional independence. It has been commonplace in India for transfers and postings of officers are used as a kind of reward and punishment. As a result, many police chiefs owe their allegiances to political parties. Also, the selection of Police Chief could be entrusted to an expert committee (may be headed by UPSC chairperson). The committee may be given a panel of officers to be selected on the basis of seniority and merit.

Use of Information Technology

Non-registration of complaints is the most common grievance of citizens interacting with police department. Since the registration of complaint or FIR is the first step in pursuit of justice, a citizen is normally forced to pay bribe. Therefore, use of technology for reporting and handling of cases would help in avoiding such indiscretions.

- Filing of FIR/cases could be done through Internet and if required detailed information can be given later.

- Case status could be made available online to bring in more transparency and make the Police force more accountable.
- FIR could be registered/receipt issued through check posts or mobile vans.

Appendix–A.7.1

*Appointment and Management of Police Chiefs: Commonwealth Best Practice**

The exercise of operational direction and daily management usually rests with the Head of Police, and the necessity to insulate this position from being vulnerable to excessive political interference is vital. Serious breaches of law and accountability arise out of inappropriate relationships of patronage that develop where there are no objective procedures and criteria for the appointment and management of police chiefs.

While there are no universal formulas, the power to hire and fire police chiefs must, at minimum, be prescribed by clear and fair procedures. Where possible, the input of additional institutions such as Service Commissions or civilian oversight bodies can be integrated, adding transparency and civilian participation to this important process. The highest police post must also be protected by secured tenure.

The established procedure in England and Wales, Northern Ireland and Canada demands and relies to a large extent upon civilian input. In these jurisdictions, the local policing authorities are responsible for the appointment of the Head of Police, subject to ratification by the minister in charge in some cases. The authorities can call for suspension or premature dismissal or transfer on public interest grounds. In New South Wales and Queensland (Australia), the process of appointment is also significantly collaborative, requiring input from civilian oversight bodies. The Commissioner of the Queensland Police Service, for instance, is appointed by the Governor in Council, on a recommendation agreed to by the chairperson of the Crime and Misconduct Commission. The agreement of the Minister for Police for the state also has to be sought in.

In New South Wales, the Governor appoints the police chief on the recommendation of the State Police Minister, after the Police Integrity Commission and internal disciplinary department of the New South Wales Police have done a background check on the short listed candidate. The Commission and the internal department have to submit findings to the Minister, and the Minister must then obtain a statutory declaration from the candidate that s/he has not knowingly engaged in any form of misconduct. The Crime and Misconduct Commission and the Police Integrity Commission are both independent civilian oversight bodies with vast powers over the police.

* Devika Prasad: *Control & Governance of the Police: Commonwealth Innovations in Policy and Practice*. Access to Justice Programme, CHRI

Appendix–A.7.2*Interpol: Global Standards to Combat Corruption in Police Forces/Services***Article 1***Objectives*

- a. To ensure that the police forces/services of each Member State of Interpol have high standards of honesty, integrity and ethical behaviour in and in connection with the performance of their policing functions.
- b. To promote and strengthen the development by each Member State of Interpol of measures needed to prevent, detect, punish and eradicate corruption in the police forces/services within its national boundaries and to bring to justice police officers and other employees of police forces/services who are corrupt.

Article 2*Definitions**Corruption includes:*

- a. The solicitation or acceptance, whether directly or indirectly, by a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.
- b. The offering or granting, whether directly or indirectly, to a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage for the police officer or other employee or for any person, group or entity in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.
- c. Any act or omission in the discharge of duties by a police officer or other employee of a police force/service which may improperly expose any person to a charge or conviction for a criminal offence or may improperly assist in a person not being charged with or being acquitted of a criminal offence.
- d. The unauthorised dissemination of confidential or restricted police information whether for reward or otherwise.
- e. Any act or omission in the discharge of duties by a police officer or other employee of a police force/service for the purpose of obtaining any money, article of value, gift, favour, promise, reward or advantage for himself/herself or any other person, group or entity.
- f. Any act or omission, which constitutes corruption under a law of the Member State.
- g. Participation as a principal, co-principal, initiator, instigator, accomplice, accessory before the fact, accessory after the fact or in any other manner in

the commission or attempted commission or in any conspiracy to do or omit to do any act referred to in the preceding provisions of this Article.

Police force/service means each police force/service or other official body with a responsibility to perform policing functions within the national boundaries of the Member State.

Article 3

Principles

- a. To make corruption within police forces/services a high-risk crime.
- b. To promote and maintain a high standard of honesty, integrity and ethical behaviour within the police forces/services of each Member.
- c. To foster the recruitment and training as police officers of persons of high levels of integrity, honesty, ethical standards and expertise.

Article 4

Measures

Each Member of the Organisation commits to:

- a. making corruption by a police officer or other employee of a police force/service a serious criminal offence;
- b. having legislation enacted to allow the proceeds of corruption and related crimes to be forfeited;
- c. establishing and maintaining high standards of conduct for the honest, ethical and effective performance of policing functions;
 - Such standards should be mandatory and be directed towards an understanding and application of honest, ethical and appropriate behaviour, the avoidance of conflicts of interest, the proper use of public resources in and in connection with the fair and impartial application of the law, the performance of policing functions, the reporting of acts of corruption in and in connection with the performance of policing functions, and the establishment and strengthening of public confidence in police officers and police forces/services as part of the system of justice;
 - Such standards should accept that it is an obligation of the police force/service to seek out and effectively deal with corruption within the police force/service;
 - Such standards should impose an obligation on police officers and other employees of a police force/service to report to the appropriate person or authority acts or omissions which constitute or may constitute corruption within the police force/service;
- d. setting up and maintaining effective mechanisms to oversee and enforce the high standards of conduct required in and in connection with the performance of policing functions;

-
- e. bringing into being or causing to be brought into being such legislative, administrative and other measures as may be necessary to prevent, detect, punish and eradicate corruption in the police forces/services;
 - f. conferring or causing to be conferred on a designated authority, whether internal or external, such powers to carry out investigations and bring to justice without fear, favour, affection or ill-will those who engage in corruption and dishonesty in the course of or in association with the carrying out of policing functions, and adequately resourcing and funding such authority;
 - g. providing for a system for the recruitment of officers for such designated authority who are of high integrity and which ensures that such officers are not disadvantaged by recruitment to any such designated authority;
 - h. providing adequate safeguards to prevent abuse of powers by those engaged in the anti-corruption system and to minimise unnecessary infringements of individual rights;
 - i. having a system for instructing police officers and others engaged in and in connection with the performance of policing functions of the standards and ethical rules applicable to the performance of such functions;
 - j. establishing and enforcing procedures for the declaration and registration of the income, assets and liabilities of those who perform policing functions and of appropriate members of their families;
 - k. establishing a mechanism such as an oversight body or bodies to monitor the systems and measures established for preventing, detecting, punishing and eradicating corruption within the police forces/services and the adequacy, application and effectiveness of such systems and measures;
 - l. requiring public reporting at least once each year of the work and findings in relation to the monitoring of the systems and measures referred to in Article 4(k) and their adequacy, application and effectiveness;
 - m. putting in place deterrents to the bribery of those performing policing functions;
 - n. establishing mechanisms to encourage participation by civil society in activities and efforts to prevent corruption in the police forces/services;
 - o. having and maintaining effective systems for the recruitment of police officers of high levels of integrity, honesty, ethical standards and expertise;
 - p. ensuring that the systems for recruitment, posting, promotion and termination of police officers and other employees of the police forces/services are not arbitrary but are based on fairness, openness, ability and performance;
 - q. having and maintaining a system for the training, including on-going training, of police officers and other employees in the police forces/services which reinforces the high standards of conduct referred to in Article(c);

- r. taking all practicable steps to ensure that the rates of remuneration for police officers and other employees of the police forces/services are such as to enable them and their families to maintain a reasonable standard of living without having to resort to other employment or to corruption;
- s. having and maintaining systems for the procurement of goods and services that are based on openness, efficiency, equity and certainty of the rules to be applied and that seek the best value for money;
- t. having and maintaining systems of revenue collection, money and property handling and for the control and preservation of evidence that ensure that those collecting or handling public money, dealing with evidence or handling property are accountable and that the systems are such as to deter corruption;
- u. having an effective system that obliges police officers and other employees of the police forces/services to report corruption, that enables them and members of civil society to report corruption, and that protects those who report corruption in good faith;
- v. continuing research in relation to current best practice for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions;
- w. reviewing at appropriate and regular intervals the measures and systems for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions;
- x. using their best endeavours to ensure that the mechanisms and systems for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions in its police forces/services are kept abreast of current practice as recognised by the General Assembly of Interpol;
- y. reporting at least once each two years, or at such shorter intervals as the General Assembly may resolve, on the measures taken and the mechanisms and systems in place to implement the standards set out in this protocol and the effectiveness of such mechanisms, systems and measures;
- z. permitting the monitoring by and co-operating with such person or persons as may be appointed by the Secretary General for the purpose of monitoring the mechanisms, systems and measures in place in relation to its police forces/services to achieve the objectives and meet the standards referred to in this protocol and the effectiveness of such mechanisms, systems and measures.

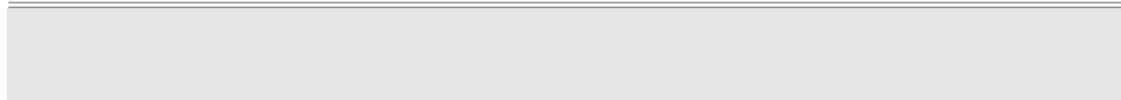
Article 5

Review

The operation of this protocol shall be reviewed by the General Secretariat of Interpol on an ongoing basis and is to be the subject of a report to each session of the General Assembly that is held after the expiration of two years from the adoption of this protocol.

8

Governance in Judiciary



Overview of the Structure

An efficient criminal justice system, where offenders are pursued and justice is delivered expeditiously without compromising fairness, is a



quintessential source of generating public confidence in democratic governance and the rule of laws. The independence of the judiciary is mandated in Articles 124-47 of the Constitution dealing with the Union Judiciary in the form of Supreme Court of India, the High Courts in the states (Articles 214-31), and the subordinate courts (Articles 233-7). The appointment, powers, and jurisdictions of the three categories are well laid out in the Constitution. Whereas the High Court (HC) has the power of superintendence over all courts in the state, the Supreme Court (SC) has no such jurisdiction except that 'the declared by the Supreme Court shall be binding on all courts within the territory of India' (Article 141) and all authorities Civil and Judicial must act in aid of Supreme Court. The judges of the Supreme Court and the High Courts cannot be removed from their office except by a process of impeachment by the

parliament (Arts 124, 217). The control of the High Court over the subordinate courts extends to matters of posting, promotion, grant of leave (Art 235), calling for returns, issue of general rules, and maintenance of records (Art 227). The accountability of the judiciary is to law and the Constitution, and except the Supreme Court, the decisions of other courts are subject to appeal to the next higher judicial authority.

Although certain provisions for accountability of the judiciary do exist in Constitution, corruption in the justice system is increasingly apparent. Two recent judicial pronouncements provide evidence for this. In one of the decision of the Supreme Court in the Gujarat riot cases has exposed the hollowness of all components of the system because of their failure to prevent miscarriage of justice thus resulting in the acquittal of accused persons alleged to be close to the political party in power. (*Zahira Habibullah Sheikh vs. State of Gujarat*: 2004 AIR SCW 2325; 2004 (4) SCC 158.) The second involved the acquittal in 2006 of nine accused persons, one of them the son of a political bigwig, alleged to be involved in the murder even though the incident (1999) took place in the presence of a large number of guests. Police have started investigating the alleged lapses on part of officers handling the case. The decision of the judge has been appealed against on the ground that the court had ignored crucial circumstantial evidence. High Court of Delhi has set aside the acquittal and convicted three accused (including one for life imprisonment) and has issued notices to 32 prosecution witnesses who had turned hostile during the trial in Lower Court to show cause why they should not be prosecuted for committing the offence of perjury punishable under Section 193 IPC. (Jessica Lall murder case.)

Both the Prime Minister and the Chief Justice of India (CJI) commented publicly on the state of affairs. The Chief Justice said, "The country's justice-delivery system appears to be on the verge of collapse" (*Indian Express*, New Delhi, March 12, 2006). "Instances of corruption have now begun to surface in our judicial system too. The higher judiciary must address this challenge and show the way forward to the rest of the system", said the Prime Minister (Ibid). He added that there was a need for "an effective mechanism to ensure accountability while at the same time maintaining the independence of the judiciary."

Scale of Corruption

Corruption has two manifestations—one is the corruption in the system, and the other is corruption among the judicial officers. Whereas the system is polluted, the judiciary, especially the higher judiciary, is relatively clean, though exceptions cannot be ruled out. Its operations are transparent. The proceedings are held in the open court, all documents are available, and

copies of authenticated orders can be taken. There is a system of correction in the form of reviews and appeals. Yet there is a lot of discretion of courts with regard to interlocutory orders on stay proceedings, vacation thereof, bail petitions, issue of warrants, adjournments, etc. There are many occasions when power can be misused though evidence of it may not be available due to existence of conduits. No wonder that due to connivance of various functionaries in the system, "Criminal justice succumbs to money power" (Justice V.R. Krishna Iyer, *Times of India*, March 7, 2006).

A Transparency International India survey (2005), conducted by the Centre for Media Studies on petty corruption, studied the perceptions on

judiciary at the lower level. The estimated amount of money as paid by people is about Rs. 2,630 crores. The majority of persons (73 per cent) had visited the civil courts, and 80 per cent of them admitted to corruption in judiciary. Money was paid to lawyers in 61 per cent cases, 29 per cent to court officials, 5 per cent to judges, and the rest to middlemen. The money was paid for seeking favourable decision (30 per cent), speeding up cases (15 per cent), getting cases listed (11 per cent), manipulating public prosecutor (28 per cent), securing affidavit (8 per cent), manipulating witnesses (10 per cent), seeking bail (8 per cent), etc.



Weaknesses

Primary causes of corruption are immense delays in the disposal of cases, huge pendency of cases, shortage of judges, poor judge-population ratio, lack of infrastructure, lack of accountability of judges & transparency in judicial appointments, and complex procedures, all exacerbated by the preponderance of new laws.

Backlog of Cases

The courts are clogged* with cases. As of February 27, 2006, there were 33,635 cases pending in the Supreme Court with 26 judges; 33,41,040 cases in the High Courts with 670 judges; and 2,53,06,458 (about half of which pertains to traffic challans, motor vehicle claims, bouncing of cheques, etc.) with 13,204 subordinate courts. Such a huge pendency on bounced cheques

* According to *Times of India* dt. August 18, 2007, almost 300 lakh cases were pending across various levels of the judiciary—43,728 in Supreme Court, 39,57,016 in High Courts and 2,55,04,926 in district & subordinate courts.

is despite the legal reforms made some four years ago to fast-track cheque bounce cases. This huge backlog of cases leads to adjournments for long time spans and prompts people to pay for speeding the process. (*Hindustan Times*, March 19, 2006). In 1999, it was estimated that 'at the current rate of disposal, it would take another 350 years for disposal of the pending cases even if no other cases were added' (Report of Conference and Workshops on *Delays and Corruption in Indian Judicial System and Matters Relating to Judicial Reforms*. New Delhi. 18-9 December, 1999; organised by Transparency International India and Lok Sevak Sangh). The situation has not improved since then as the backlog continues to increase.

A discreet watch was maintained in one of the metropolitan court complexes by one of the state chapters of TI India. It was discovered that each of the four courts studied had listed from 97 to 160 cases daily for hearing. Since such a large number of cases cannot be heard, this leads to adjournments in which, in addition to the wastage of court's meagre resources, harassment and the cost to the petitioners etc., there is a scope for corrupt practices in order to get the case listed earlier.

Shortage of Judges

Shortage of judges is a key reason to delays. The ratio of judges to population is abysmally low, with 12 to 13 officers for one million persons, compared to 107 for USA, 75 for Canada, 51 for UK, etc. (Malimath Committee Report). As per the above figures, even the workload of the court, on the average, comes to 1,294 cases per judge of the Supreme Court, 4,987 for High Court, and 1,916 for the lower court. In addition to the inadequacy of the judicial officers, there were 3 vacancies in the Supreme Court, 131 in the High Courts, and 644 in the lower courts (*Hindustan Times*; March 19, 2006). The vacancies add to the cause list of existing courts thus further compounding the problem of delay. Frequent adjournments over long spans are irritating, thus prompting people to pay speed money. Sometimes, the unscrupulous party in the proceedings is able to get the court procedure stretched for its benefit. Thus, money may be paid for both—seeking speed and delaying the process.

Lack of Judicial Alertness

The prescribed Procedure and Law of Evidence confer vast powers on the judge to conduct trial fearlessly and fully, but usually he is reluctant to sit tight over the proceedings, especially in matters of adjournment, calling essential witnesses *suo moto* as Court witnesses and take adequate cognizance of perjury by witnesses.

Complex Procedures

Another reason for delay in disposal of cases is a conglomerate of disparate groups, legally independent but bound to each other through the medium of law. To that extent, these are interdependent, but at the same time defy any hierarchical relation. It is not a set of relationships with a unity of purpose having a feedback mechanism that leads to a method of correction. It is, on the other hand, a set of legal processes. Therefore, a certain degree of synchronicity is essential for the judicial process to progress. For instance, all wings of the system must be represented when the trial is on. The police, the accused person, the defence counsel, the prosecutor, the court clerk, and the relevant documents must be in position to fulfill the requirements of the process. Even if one is missing, the progress is stalled. A lawyers' strike means adjournment of cases listed for the day, even though all others are present. Similarly, absence of accused, real or feigned, too obstructs the process. Hence, judiciary alone cannot be considered responsible for delays that may contribute to the phenomenon of corruption. Delays too are occasioned by inadequacies committed by the investigators, prosecutors, prisons, pleaders, absence of witness, etc. Therefore, no judicial case can proceed without the support of other wings of the system.

Absence of Witness Protection

Further, inordinate delay in criminal proceedings reduces the commitment of witnesses, creates opportunities for witness intimidation, demoralises witnesses and provides a perfect foil for the guilty, who simply wish that cases would fade away. Thus, vulnerable witnesses deserve special support so they are able to give evidence in ways that recognise their particular circumstances. In the absence of robust protection, it is unsurprising that in many cases witnesses for the prosecution turn hostile.

Greater willingness in allowing vulnerable witnesses to give evidence by video or *via* a live link from another room is essential. A formal witness protection programme to assist in the temporary or even permanent relocation of witnesses under physical threat is badly needed too. Being tough on crime must necessarily encompass being tough on delay in the prosecution of crime.

Passing the Buck

Since the structure of the system is complex, involving many agencies, and none is accountable for the final outcome of the trial, it is easier to shift responsibility to others for miscarriage of justice due to delay or resulting in acquittal. For instance, a witness swapping statement may be due to a private transaction between parties as a result of inducement,

threat, or promise. Or the actors in the system having legal powers may take a literal view of law, introduce infirmities in evidence to make room for doubt, or not make a forceful reasoned plea for justice in order to assist a party in dispute. Corruption may thus take place because of the competing interests of parties as well as some of the officials. It is difficult to pinpoint the agency for the ultimate outcome of the case since most of the transactions are through middlemen.

Preponderance of New Laws

Another reason for unmanageability and backlog of cases is the preponderance of new laws. There have been 130 new laws pertaining to social, economic, and environmental issues and communications technology during the last ten years, leading to more litigation and more administrative demands on the system, without a commensurate increase in infrastructure and resources. This led the Supreme Court to urge, "There must be a judicial impact assessment whenever any legislation is enacted."

Impact

The overall impact of the delay and corruption has led to a general cynicism among the people who have lost faith in the system. The erosion of confidence has deleterious consequences. The denial of justice due to delay neutralises the deterrence effect of law. People seek shortcuts through corrupt practices, or search for alternatives in the parallel system, or join the forces of disorder. This phenomenon leads to impunity and unlawful behaviour that feeds upon non-enforcement of law. This erodes the authority of the state making it 'soft' to deal with organised crime and mafia, subversive forces, and armed groups of people. All this is evident in the absence of social controls, unauthorised constructions and colonies, encroachments upon public spaces, indiscipline, and violation of norms. The upsurge of mafia and informal sub-terranean systems is a symptom of the malaise that permits the operation of intimidation and strong-arm tactics as a means of dispute resolution. Mr. J.S. Anand, the former Chief Justice of India comments, "Delay erodes the rule of law and promotes resort to extra-judicial remedies with criminalisation of society. Delay in decision of criminal cases against politicians is contributing to criminalisation of politics and tainted persons sharing power to control the apparatus of law. Speedy justice alone is the remedy for the malaise" (Letter to the Prime Minister of India. April 7, 2005; reproduced in *South Asia Politics*. Volume 5(1), May 2006. New Delhi).

Reform of Judicial System

Any reform in the judiciary must take into account the system as a whole as all the components are woven with each other in a legal

relationship. It, therefore, must include reform of the investigating agency, prosecution department, the courts, the lawyers, the prison administration, and law of evidence that does not permit perjury. Reform in one shall not pay off. Most of these important issues have been considered in the *Report by Committee on Reforms of Criminal Justice System*, popularly known as the Malimath Committee of the Union Ministry of Home Affairs of March 2003.

However, some of the measures related to the judiciary alone are worth considering as it is the controlling factor in the system and plays a pivotal role. It has wide and comprehensive powers over other components and may have a salutary effect upon the system as a whole. Therefore, the following reforms in the judiciary are crucial to uplifting of the system.

Increase in the Number of Judicial Officers

According to the Chief Justice of India K.G. Balakrishnan (*Times of India*, Nov. 05, 2007) there are now about 14,600 courts functioning in the country. There is a need for 5,000 more to avoid the backlog. Thus, not only should the number of judicial officers be increased, the existing vacancies must also be filled up promptly to prevent the backlog from increasing. The Supreme Court has earlier recommended that the existing ratio of judges, 12 per one million people, should be raised to 50 judges in a phased manner within five years (*All India Judges Association & Others vs. Union of India*: 2002, 4, SCC 247). The Supreme Court has also directed the Centre and the States to fill all vacancies of judges in High courts and the subordinate courts (*The Tribune*, April 6, 2006). However, there has been no visible action on this.

Use of Technology for Improving Court Management

Introducing technology to help manage court records has had some success as a judicial reform effort. Use of technology enabled the Supreme Court to reduce its backlog in 1998, by bunching the cases seeking interpretation of law on the same subject. The Government of India set up the E-Committee in October 2005, under the chairmanship of Supreme Court Justice G.C. Bharuka, to formulate a five-year plan and National Policy on computerisation of justice delivery system. It is proposed to implement an Information Communication Technology programme which aims to boost efficiency and transparency. It is to include creation of computer rooms in all 2,500 court complexes, provision of laptop to about 15,000 judicial officers, and technology training to judicial officers and court staff. It will provide database of new and pending cases, automatic registries, and digitisation of law libraries and court archives. It also promises video-conferencing in the Supreme Court and all High Courts, digital production of

under trial prisoners so that they do not have to be brought to court for extension of remand, and distant examination of witnesses through video-conferencing. (For details, see Justice G.C. Bharuka (2005). "Implementation of Information and Communication Technology in Indian Judiciary", *NJA Newsletter* of National Judicial Academy, Volume 2(2), December.) The Supreme Court has also introduced e-filing of petitions from October 2, 2006. Among others, this has saved precious travel time and expenditure of litigants from far away places like the North East and the South.

Speeding Up of Trial

To this end a number of measures, including increase in working days, prior scrutinising of affidavited responses, establishing Mediation Centres, additional courts exclusively for trial of corrupt politicians & officials, operationalise fast track Courts, Mobile Courts to hear cases in far flung areas and Night Courts have been undertaken. Similarly, vacations have been reduced by one week, and additional benches were constituted in the summer vacation. The Supreme Court put in place two Registrars to scrutinise 186 cases daily to ensure that the required affidavited responses are filed and the case is ready in all respect for hearing. As a result of increase in the working days, the Supreme Court disposed of 55,515 cases, registering a whopping 20 per cent increase over 46,210 cases disposed off in 2005.

With a view to speed up disposal of pending cases, the Gujarat Government started 17 Night Courts in Ahmedabad (rural) and five each in the Metropolitan Magistrate's Court and in Rajkot District on November 14, 2006. These courts, *inter alia*, take up criminal cases and revision applications, civil cases (with a claim upto Rs. 1 lakh), misc. civil appeals and applications, claim petitions and applications under the Motor Vehicle Act, etc. and work from 6.15 PM and run for two hours on all working days. In just 45 days of their inception, they have provided relief to 16,000 litigants. Now, the number of these courts has grown to 42. Encouraged by their impact, the Govt. has decided to start such courts in Bhavnagar, Surat, Mehsana and Jamnagar Districts. There is a proposal for Vadodara and at *Taluka* level too.

The Government is considering the change in the Criminal Procedure Code (Cr.P.C) to divide all the cases into two—Summons Case and Warrants Case. Summons cases will be those entailing punishment up to two years and these may mandatory attract summary trials. If the Magistrate opts for a detailed trial, then he may have to give 'cogent' reasons for his decision. Warrant Cases will be those which have a punishment ranging for more than two years up to death. They are designed to do away with detailed examinations and oral evidences. The Government is also considering to widen the ambit

of 'Compoundable Offence' by bringing in more violations with petty property related offences and other petty crimes to provide for on-the-spot, one-time settlement. Since most of the cases (more than one-fourth of the total cases) pending in the district and subordinate courts pertain to traffic challans, motor vehicle claims, bounced cheques, marriage maintenance matters, etc., a need was felt to handle such cases through 'one time disposal' and fast-track courts. Thus, 'warrant cases' ought to be treated differently from the 'summons cases'.

The Government is also considering the setting up of a National Protection Court Authority to deliberate its verdict in ten days. This judgment can be appealed only in the Supreme Court, which will give heft to the proposed body. A whole range of practices associated with the Internet and cellphones are expected to fall under its ambit. Besides product-related cases, misleading advertisements, telemarketing, this new Court would scrutinise credit card fraud and e-commerce. Besides, acting on the Bakshi Committee Report, the Government is considering to enact a Village Court Act to set up courts at the block and village *panchayat* levels to deal with the cases of villagers. At present, there is a pendency of 2.5 crore such cases in the Lower Courts and 40 Lakhs in High Courts.

Judicial Accountability

India is termed the only country where judges in effect appoint their successors, making the judiciary a "self-perpetrating oligarchy." (*Times of India*, December 20-21, 2006). However, there is a rhetorical commitment to improving accountability in the judiciary. The Former Chief Justice Y K Sabherwal has said, "The judiciary is committed to continue cleansing itself by coming down with a heavy hand on the unscrupulous elements that may exist within, and also by removing the dead wood. We have adopted a policy of zero-tolerance on this subject" (*Indian Express*, March 12, 2006). There is, however, no effective mechanism of ensuring accountability. Even the 'in-house procedure of enquiry', which was set up by the Supreme Court 10 years ago, is being questioned by certain quarters. Hence, a large number of Supreme Court Bar Association's members have opposed the exemption of the judiciary from the Right to Information Act 2005.

To introduce accountability in judiciary, the Government had introduced a Judges (Inquiry) Bill in mid-December 2006, largely based on the recommendation of the 195th report of the Law Commission, seeking the creation of a National Judicial Council (NJC) for appointing and probing complaints of deviant behaviour against Judges of the Supreme and High Courts. It provides a range of 'minor measures' that could be taken against errant judges. These include: issuing advisories to the judge, requesting for

retirement, warning and censure or admonition, and stoppage of assignment of judicial work for a limited period. However, the prescribed impeachment procedure for removing an SC or HC Judge would continue.

However, apprehensions have been expressed about its impartiality since 'judges would be judged by their peers.' It is, therefore, suggested that there should be at least one qualified member in NJC, who does not belong to the judicial fraternity. For example, the British commission for judicial appointments is constituted of eminent professionals who have never been lawyers or held any judicial office. Thus, a more representative NJC would only reinforce the impartial character of the judiciary and make far greater transparency in investigations into allegations against a judge.

Legal Support to Judicial Ethics

Earlier, the higher judiciary initiated adoption of a Code of Conduct for Judges, called the Restatement of Values of Judicial Life, and adopted by the Chief Justices Conference of India, 1999. (Justice R.C. Lahoti (2005). "Canons of Judicial Ethics", *NJA Occasional Paper Series* No. 5, Bhopal). The document includes conflict of interest guidelines, for example, on cases involving family members, and specifically conduct with respect to gifts, hospitality, contributions, and the raising of funds. It also stresses, "Every judge must at all times be conscious that he is under the public gaze and there should be no act or omission by him which is unbecoming of the high office he occupies, and the public esteem in the office is held" (Ibid). The Bangalore Principles of Judicial Conduct, adopted in 2002, stress judicial independence, impartiality, integrity, propriety, equality of treatment to all, competence and diligence, and implementation. However, the judicial system has yet to provide legal support to these stipulations. Unduly long arguments at the Bar and long multiple Judgments—sometimes even concurrent opinions of individual Judges—consume valuable time of Courts already overburdened with work.

For Subordinate Judiciary, an institution of Judicial Ombudsman, on the lines of those in Scandinavian Countries (with suitable amendments appropriate to our conditions, including independence of Judiciary) may be evolved. Since the concept of National Judicial Council for Higher Judiciary has come into existence, there should be no difficulty in adopting the concept of Judicial Ombudsman for Subordinate Judiciary.

Citizens' Charter for Judiciary

A Citizens' Charter for Subordinate Judiciary will generate awareness of the people in the Judicial System and will at the same time infuse a better sense of responsibility in Judicial Officers. The Prime Minister has also

observed at the National Meet on Social Justice and Legal Empowerment (August 19, 2006) that a Judicial System is a dispute resolution system and must be recognised as a 'service' which provides 'consumers' expeditious and effective resolution of these disputes. He added that lower Courts, the District Courts, are at the cutting edge of governance.

An All-India Judicial Service

At present, the lower judiciary is recruited by the states. To improve the quality of subordinate judiciary and standardisation of response, it is necessary to have an all-India Judicial Service as in the case of administration, police, and other civil services. This stipulation was incorporated in the 42nd Amendment to the Constitution in 1977 in article 312. The service has not been constituted as such. The plea was reiterated in a decision of the Supreme Court in *All India Judges Case: AIR 1992 SC 165*. But still there has been no move on this aspect.

Investments in Infrastructure

The judiciary is abysmally short of funds and as a result the basic infrastructure suffers. The court buildings, the judicial lock ups, the chambers for the prosecutors, the space for witnesses-in-waiting, the computerisation of records, supplying of documents, etc., all suffer from inadequate funding. Though the judiciary is an important entity, yet its finances are controlled by the legislature and implemented by the executive. In the matter of creation of posts, and for making suitable expenditure, the judiciary has no autonomy whatsoever. The CJI mentioned, "The High Courts have the power of superintendence over the judiciary, but they do not have any financial or administrative power to create even one post of a subordinate judge or of the subordinate staff, nor can it acquire or purchase any land or building for courts, or decide and implement any plan for modernisation of court working" (*NJA Newsletter*).

Training of Judicial Officers

Prior to 1990, there were only four State Judicial Training Institutes. The decade of the 1990s saw the setting up of four more institutions. Since 2000, ten more state training institutions have come up, besides the National Judicial Academy (2002). So, of late, there has been stress upon judicial education that will go a long way in inculcating the correct value system, including the need for integrity and transparency in judiciary.

Consciousness to Combat Corruption

Conscious of the problem to improve image of judiciary and to retain the confidence of people, a national seminar on *Expediting Justice and*

Combating Corruption was held at NJA, Bhopal, between April 8-10, 2005. The divinity of the judicial function was stressed, involving integrity, and speed. The role of the Registrar (Vigilance) to look into the complaints against judicial officers, introduction of E-governance, use of information technology to bring in transparency, eradication of corruption, reducing litigation costs, and training judicial ethics were proposed.

Protection to Witnesses

To deal with the growing tendency of witnesses being induced or threatened to turn hostile by the accused parties, who are influential and rich, a Code of Criminal Procedure (Amendment) Bill 2006 was introduced in the Rajya Sabha on August 23, 2006. It mandates recording of statement of all persons whose statements appear to be 'material and essential for proper investigation' in offences punishable with imprisonment for at least 10 years under Section 164 B before the nearest Judicial Magistrate. Any statement of a witness recorded in writing before a magistrate may also be recorded by 'audio-visual electronic means' in the presence of the advocates of the accused. Such hostile witnesses are liable to be tried summarily under the proposed Section 344 A. In a bid to prevent the Police from tempering with evidence, such statements may also be recorded by 'audio-visual electronic means.' Further, statements recorded before the Police U/S 161 'shall be recorded in the case diary and that such diary shall be a bound volume and duly paginated.' Under a new Section 162, Bill provides that all the statement in writing are 'to be signed by the person making it and a copy of the statement as recorded shall be given forthwith' to him free of cost.

Cordial Relations with Press

At a meeting of Registrars of all High Courts held in December 2006, it was, *inter alia*, resolved that they would maintain good working relationship with the Press and the Visual Media through easy and speedy availability of judgments pronounced by the courts (to start with the High Courts) and address media on the courts' activities and the their reaction to a news item appearing in the Press. Besides, it was also decided to constitute Coordination Committees comprising the Chief Secretary, Registrar General of the High Court and the Law Secretary in each State to follow-up the decisions taken at the Chief Justices' Conferences.

Outsourcing of Services

There can be significant qualitative improvement and substantial savings in many services, including cleaning and sweeping of court buildings, maintenance of public conveniences, transport for official purposes,

running of departmental canteens, and providing security being currently rendered by government servants, if they are outsourced.

Conclusion

For the removal of malaise, the higher judiciary shall have to devise measures to prevent shaking of public confidence not only in its officers but also in the functioning of the system so that the components are not able to shift the blame upon others. Accordingly, the Supreme Court has devised three important national-level strategies/plans, namely National Judicial Education Strategy (NJES), National Judicial Infrastructure Plan (NJIP) and National Plan for Mediation (NPM). However, it is bulwark of an important pillar of governance. There is a lot of hope in the judiciary to combat corruption by enforcement of law and deciding cases of bureaucratic corruption expeditiously. The Supreme Court seems to be conscious. Hence, it has come up with suggestions to stem the rot. In the words of Fali Nariman*, "The law is not merely about cases, nor about legal rights. It is also about hard work and integrity. The judiciary of the 21st Century, along with the legal profession, needs to set an example in exemplary self-discipline; discipline in approach, discipline in lifestyle; discipline in thought, word and deed... As the Bhagavad Gita says, whatsoever important men and women say and do, other men follow."

* Extracts from PM's Speech on the release of Fali Nariman's book on Legal Reforms, August 31, 2006.

Appendix-A.8.1

Summary of the Menon Committee Report on Draft National Policy on Criminal Justice

01. The Mandate

The Committee, appointed in May 2006, was asked to draft a National Policy Paper on Criminal Justice, keeping in mind the prevailing law and practices, socio-cultural values and the changing nature of crime, with a view to making the justice delivery system faster, fairer, uncomplicated and inexpensive.

02. What Ails the Criminal Justice System: Public Perceptions

There is widespread dissatisfaction with the way crimes are investigated, and criminals prosecuted by our existing Criminal Justice System which, in public perception, affords little protection to life and property and renders criminality as a “low risk, high profit business”.

The apparent reasons for popular dissatisfaction with the system are:

- (i) Even after prolonged and costly procedures, not even one-fourth of cases end in conviction.
- (ii) Money and influence play a significant role resulting in double standards—the rich often get away lightly and the poor are put to suffering and discrimination.
- (iii) Delays defeat justice and the offenders go unpunished; witnesses are threatened and have no protection.
- (iv) Victims are totally ignored in the system and get no relief for the injuries or losses suffered. Even registration of their complaints often becomes difficult without money or influence.
- (v) An unholy nexus is perceived to prevail between criminal syndicates, politicians and the law enforcement officials, affecting criminal proceedings and the rule of law.
- (vi) Corruption has taken a heavy toll of the system.

03. What Citizens Seek from Criminal Justice?

Citizens seek basic security of their life, liberty and property without discrimination based on status or influence, and demand equal justice under law. In the process of enforcing the law, people do not want too much interference with their freedom and liberty from state agencies. They do not care whether criminal justice is administered by the Central Government, State Government, Local Government or all of them put together. People want efficiency and accountability from the system and zero-tolerance against corruption.

04. Broad Approaches in Policy Development

The Policy Paper attempts to respond to the popular complaints through three broad approaches, namely:

- Criminal law reform, both in substantive as well as procedural laws.
- Institutional reforms of Police, Prosecution, Courts, Prisons etc.

- Qualitative improvement in Personnel and Management of the Criminal Justice System.

Besides, the Policy Paper also adverts to certain special areas of concern emanating out of changes in socio-economic conditions, technological developments as well as globalisation.

05. Criminal Law Reform

5.1 De-criminalisation, Diversion and Settlement: De-criminalisation of “marginal” offences, which can as well be tackled through civil or administrative procedures, by a continuous process of review and revision, is an urgently needed reform. Further, Legislatures should look for possible use of diversion to non-criminal strategies, for settlement of injuries of civil nature. Criminal sanctions should be reserved only as the last option in social ordering. Settlement without trial (compounding and plea bargaining) should assume mainstream status in criminal proceedings and laws should be developed accordingly.

5.2 A Victim Orientation to Criminal Justice: It shall be the policy of criminal justice to focus on the victim of crime as much as the accused, thus restoring a balance in criminal procedure between the offender, victim and society. Apart from recognising the right of the victims to implead themselves in criminal judicial proceedings, a speedy and effective scheme of compensation to victims of at least serious crimes to begin with, should be implemented, irrespective of the outcome of such proceedings. For this, a Victim Compensation Fund has to be instituted, to be administered through the Legal Services Authorities.

5.3 Multiple Criminal Codes based on Rational Classification: Crimes need to be classified and organised into four distinct and comprehensive CODES, on the basis of gravity of the injury and the appropriateness of the response needed to deal effectively with the same. The four-fold scheme would include a SOCIAL WELFARE OFFENCES CODE (SWOC) for offences which are civil in nature and where the object should be more of reparation and restitution rather than punishment and retribution. Naturally, arrest and detention are unnecessary in such cases (except when violence is involved) and compensation and community service can better meet the ends of justice rather than incarceration of the offenders. Minor marriage offences, prohibition offences, vagrancy, minor indiscipline in campuses and work places etc., can well be brought under this Code.

It is also possible to entrust enforcement of these laws to agencies other than the police.

The method of settlement can be more conciliatory than adversarial and a lot of public participation is possible for better management of these offences in a cost-efficient and human rights-friendly manner. Under the scheme of decentralised administration, these are cases fit to be entrusted to Grameen Nyayalayas and local bodies to manage locally.

A second group of offences—more serious than the social welfare offences and which may need police intervention—may be brought under another code, to be called the CORRECTIONAL OFFENCES CODE (COC). This would include offences punishable upto three years of imprisonment and/or fine. They are usually not accompanied by violence and are, in most cases, liable to fine, probation and short-term imprisonment only. Arrest and detention may be allowed in such cases, ordinarily only with a warrant and all of them could be open to settlement through Lok Adalats, Plea Bargaining and other alternative ways, avoiding prolonged trials.

For cases under SWOC and COC, it is possible to allow modifications in evidentiary procedures through rebuttable presumptions, shifting of burden and less rigorous standards of proof. They can be treated as summons cases with provision for summary trials.

The third set of offences, to be included in the PENAL CODE (PC), are graver offences punishable with imprisonment beyond three years and, in rarest of rare cases, even with death. These are cases which deserve careful and quick processing under expert supervision, ensuring all the human rights protections guaranteed by the Constitution and the laws, and where the maximum energy, time and resources of the state are to be spent keeping in mind the need for speed, fairness and inexpensiveness. There has to be greater accountability from enforcement agencies in these cases as they create public alarm and insecurity.

Finally, an ECONOMIC OFFENCES CODE (EOC) needs to be created for select offences from the Indian Penal Code and other relevant economic laws including offences which pose a potential threat to the economic security and health of the country. They might require multi-disciplinary, inter-state and transnational investigation and demand evidentiary modifications to bring the guilty to book.

The four-fold scheme of re-organising criminal law and procedure as above is a desirable policy goal for better management of the crime scenario in future. It will be prudent to incorporate in each of these codes, the respective rules of procedure, the nature of trial and evidence, the types of punishment etc. The idea is to have a self-contained code of law and procedure for each of the four distinct set of offences, based on the gravity of the offences involved and the degree of flexibility the system can afford under the constitutional scheme.

5.4 A Joint Sector in Criminal Justice: Despite constitutional difficulties if any, it has become necessary for the Union to be now more actively involved in the fight against crimes, such as terrorism, communal violence and organised crime, which impinge on security of state. This calls for a joint sector organisation of Central and State Governments to deal with select crimes threatening the security of the nation or having inter-state ramifications, which require ability to deploy all the resources needed. The National Policy should identify all such crimes affecting the unity and integrity of the country and create a united national agency to undertake prevention, investigation and prosecution of such crimes with the support and co-operation of the State machinery concerned.

5.5 Increased Punishment Choices and Alternatives: There has to be a substantial increase in the range and variety of punishments to provide for more choices in sentencing. The quantum of punishment, particularly of fine, require revision given the contemporary value of money and the impact of inflation. Disparities in sentencing need to be reduced by evolving appropriate statutory guidelines in respect of each type of punishment, which should be periodically revised at the instance of the proposed Board of Criminal Justice.

It is also desirable to have a Sentencing Board of three judges including the trial judge, for determining punishments in select offences punishable with life imprisonment or death, to ensure objectivity. The Sentencing Board will also help the objective application of the "rarest of rare" doctrine in death sentence. The policy of fixing mandatory minimum sentences is to be discontinued as it does not serve any social purpose in actual practice.

Probation is to be invoked more often, particularly where short-term imprisonment is to be awarded. Corrective labour under supervision and the open

jail system are to become part of sentencing alternatives. Remission of term of imprisonment and parole have to be regulated strictly according to statutorily prescribed norms and procedures.

5.6 Criminal Trial to be a Search for Truth: Criminal proceedings have to be an organised, systematic search for truth. Procedures should not be practiced or interpreted in such a way as to interfere with the search for truth. Criminal courts at the level of sessions judges should have inherent powers to give such orders for securing the ends of justice as are available to High Courts under Section 482 of the Criminal Procedure Code.

Without diluting the constitutional rights of every person accused of crime, the law should place positive obligations on accused persons to assist the court in the discovery of truth. Every citizen including those suspected of having committed crime have an obligation to assist administration of justice. This can be done by more liberal use of rebuttable presumptions and shifting the burden of proof in appropriate cases.

5.7 Evidence and Proof: The axiom of “proof beyond reasonable doubt” seems to have got blunted with the passage of time and requires to be clarified by the legislature to avoid different approaches in the hands of different judges. With the adoption of different sets of Criminal Codes for offences of varying gravity, the standard of proof naturally may vary and it is only appropriate that each code restates the principles of evidence and proof applicable to the offences under that code.

5.8 Police Reform and Criminal Investigation: Criminal justice system demands greater professionalism and accountability from its actors. This would require dedicated, well-trained staff for crime investigation with adequate infrastructural support and functional freedom.

Online registration of FIR in every police station should be the goal. Non-registration of complaints should be considered a criminal misconduct, to be severely dealt with. The norms, standards and procedures relating to arrest decreed in D.K. Basu case and now incorporated in the Criminal Law Amendment Act should be scrupulously followed by every police officer. Superior officers should also be made severally and jointly accountable if officers working under them violate the norms. The proposal to invoke “notice of appearance” as a substitute to arrest is to become a normal practice in police work.

Custodial violence should be looked upon with utmost severity and quick, transparent remedies should be available for victims of such violence. Statements made to the police should be audio/video recorded and made admissible in evidence provided the accused has had the benefit of consulting his lawyer. Also, the directions of the Supreme Court on police reform require immediate implementation by all State Governments.

5.9 Prosecution Reform: Prosecution continues to be the weakest link of the criminal justice system. Selection, training, service conditions and supervision of the prosecutors demand urgent attention to enhance the quality of prosecution and to achieve the synergy between investigation and prosecution essential for effective criminal justice administration.

An independent Directorate of Prosecution accountable to the Courts need to be set up, under the control of the proposed Board of Criminal Justice, with a well-trained, well-paid cadre of prosecutors for delivery of quality justice.

5.10 Role of Defence Lawyers: Defence lawyers too have a responsibility for the proper functioning of the system. There is need for drawing up a separate Code of Ethics for lawyers, in this regard, to be jointly enforced by the Bar Councils and the Criminal Courts.

5.11 Legal Aid in Criminal Proceeding: Criminal legal aid has to be modernized with multiple services needed for the victim as well as the accused. Legal Aid is not to be limited to merely providing a lawyer to indigent accused. The State has to organise psychiatric, medical and rehabilitative services under Legal Aid. Victim compensation should also be the responsibility of the Legal Services Authority.

5.12 Criminal Courts to Ensure Speedy and Human Rights-friendly Procedures: Criminal Courts have the obligation to render speedy justice. For this, they have to speed up the processes through more effective management of dockets and proceedings. Day to day trial has also to be restored. Government should provide better resources and infrastructure to criminal courts to help them speed up trial procedures. Use of technology should be able to achieve the objects less expensively.

A modern Criminal Court Complex with single window services has to come up initially in at least the district headquarters. It will have a police station and interrogation room on the ground floor; police lock-ups/sub-jail, and magistrate's courts on the first floor; prosecutors' offices, legal aid services, witnesses rooms etc. on the second floor; sessions court in the third floor and the administrative office on the fourth floor. Special schemes should be drawn up for protection of witnesses/victim in appropriate cases.

5.13 Prison and Correctional Services: Under-trial prisoners should be kept in separate institutions. Prisons should not be overcrowded. By liberal use of bail and probation and avoiding short-term imprisonment, the prison population can be kept to reasonable limits. The living and service conditions of prison staff should be improved and strict measures taken to stop corruption in custodial institutions.

Women and children accompanying them should have special facilities in prisons. The policy on custodial justice for women recommended by the Expert Committee as early as 1979 should be implemented fully. A fair, transparent system of grievance redressal should be in place in all prisons and other custodial centres. Remission of sentence and granting of parole should be rationalised according to standard norms and procedures and administered under judicial supervision.

5.14 Training for Professionalism: Training and continuing education of all criminal justice personnel including judges is the key to improving quality, fairness and efficiency of the system. Each segment of criminal justice should progressively upgrade its training capabilities and allot up to two per cent of its total budget towards training on modern lines.

Inter-sectoral training is also necessary at middle and higher levels to achieve co-ordination. A transparent, objective system of performance evaluation should be put in place and career progression linked to it.

06. Criminal Justice and Weaker Sections

In the spirit of the affirmative action policies of the Constitution, criminal justice administration should adopt pro-active policies and procedures for protecting the weaker sections of the society including women and children. In fact, children are supposed to be treated differently by the criminal justice system in a manner conducive to the U.N.

Convention on the Rights of the Child. Since children constitute over 40 per cent of India's population, criminal justice should adopt clear policies and allocate adequate resources focusing on the child and the youth. The Juvenile Justice Act, 2000 is to be enforced in the spirit of this approach. There is need to have two separate legislations, one dealing with juvenile delinquency (child in conflict with law) and the other on child in need of care and protection (neglected and exploited children). Violence against children should receive prompt intervention from the criminal justice system and the victims treated with due care and concern. Missing and trafficked children should be a subject of special focus in criminal justice administration.

Because of several disabilities which women as a class suffer in society, gender justice demands special provisions in criminal proceedings. Several special laws have affirmative action provisions in this regard. These need strengthening and their implementation needs to be given due importance in the system. In camera proceedings, imaginative and prompt legal aid services including counseling and rehabilitation, and priority consideration of cases involving women, are necessary to make the system responsive to the needs of women and girls.

The Protection of Civil Rights Act and the SC/ST (Prevention of Atrocities) Act warrant a new mind set and a pro-active approach from the enforcement machinery. These and related laws designed to give protection and equal justice to the disadvantaged sections of society require special attention of judicial officers involved. Legal aid services also have to be developed to suit the requirements of SC/ST persons.

The beneficial provisions of the law relating to disabled persons including the elderly and the mentally unsound persons should get full recognition throughout criminal proceedings and the judicial officers should ensure its full compliance.

The Board of Criminal Justice should have full and separate data on the impact of criminal justice on each category of "weaker sections". A special Monitoring Cell in the Board should be directly responsible to promote the full implementation of the beneficial provisions of criminal law and procedure for these sections of people. There must be greater accountability in the system in this regard.

The Criminal justice system in India has special responsibilities to promote communal harmony and prevent communal conflicts causing untold suffering to innocent persons including women, children and minorities. Besides vigorously enforcing the penal provisions of the law in this regard, the system should ensure that victims of communal violence are provided prompt and adequate compensation and rehabilitation. There is need for a comprehensive law on the subject to, *inter alia*, educate the public before hand and to deter communal elements from exploiting the situation.

07. A Serious Fraud Office for Economic Crimes

Globalisation, market economy and spread of new technologies have tended to facilitate serious economic frauds with relative ease, making it difficult for criminal justice to bring the offenders to book. There is a case for revamping the law on financial transactions and developing new institutional arrangements under co-ordinated central control to deal with serious economic crimes. An independent, multi-disciplinary Serious Fraud Unit staffed by technical as well as investigation experts needs to be set up with adequate powers and resources to respond promptly and effectively to such crimes. A white paper in this regard is necessary to identify

the nature, extent and implications of this threat to the economic security of the country and to mount the responses accordingly.

08. Corruption—A Serious Threat to Justice

Corruption in criminal justice distorts its processes and delays delivery of justice. Technology can help solve the problem partly. An Ombudsman for Criminal Justice can also correct the system to some extent. In addition, a fair and transparent Complaints Redressal System has to be put in place immediately in the police, judiciary and the prisons services.

The Right to Information Act should be fully applied to all segments of the criminal justice system. Action taken against corrupt officials should be widely publicised to redeem public confidence in the system.

Investigation and prosecution of corruption cases involving national security or likely to compromise the standing of constitutional institutions need to be undertaken by a truly independent and professional body enjoying a status comparable to the Election Commission or the Comptroller & Auditor General of India. The Central Bureau of Investigation is not independent enough for the job nor has the jurisdiction, resources or personnel required for the purpose. Therefore, the need for an independent national law enforcement agency with the necessary authority and resources to undertake investigations of corruption in high places and other offences referred to it in a truly professional manner with accountability only to the law and the courts. Unlike the CBI, it should have the freedom to investigate cases across the nation and a budget not dependent on executive fiat. It should also have a permanent cadre of officials. Its head should be a collegial body of three officers appointed for a fixed term through a process that is transparent, independent and inspiring confidence in the public.

Unless serious cases of corruption are dealt with an iron hand, irrespective of party affiliations, their impact on governance generally and criminal justice in particular is going to be very serious. All efforts in the past to reform the election finances and to break the nexus between politics and crime have not yielded the desired results and the people have started believing that they will have to live with it. The National Policy should give some hope in this regard by mounting an investigation-prosecution system which inspires confidence. Simultaneously, it is necessary to put in place a more transparent and effective method of dealing with corruption in the judiciary. The proposed Judges' Inquiry Bill hopefully will provide for the machinery for the purpose. In addition, all judges should be required to make public disclosure of their assets annually to a Judicial Ombudsman which may be a three-member body of retired Chief Justices, Election Commissioners or Comptroller and Auditor Generals, appointed by the President of India in consultation with the Chief Justice of India. The Judicial Ombudsman can be associated with the body created under the Judicial Inquiry Bill for disciplining erring judges.

09. Media and Criminal Justice

Media plays an important role in achieving the objects of criminal justice. However, the role and responsibilities of the media in this regard have to be streamlined and standardised lest it should interfere in the administration of justice and violate the fundamental rights of the people involved. The Law Commission's recommendations in this regard should first be considered by the Press Council and

media bodies and declared in the form of a Code of Ethics. In appropriate cases, these guidelines should be enforced through criminal sanctions, if necessary.

10. Public Participation in Criminal Justice Administration

No system of criminal justice can function effectively without public support and participation. Both in prevention and prosecution, the system should provide more and more opportunities for public participation. A Law Enforcement Assistance Programme in criminal proceedings, to be managed jointly by the Police and NGOs, is a desirable reform. There is need to evolve a “Best Practices Manual” on community policing. Honorary probation officers and justices of peace should be inducted in different jurisdictions, depending on resources, need and interest. A citizenship education programme for youth, who constitute 40 per cent of India’s population, should be mounted to seek their assistance in maintaining order and assisting law enforcement. Similarly, in every city, a large number of senior citizens are available to assist the government agencies in prevention of crime and administration of justice. This is a great resource which the Government should mobilise for social defence.

The principle of decentralisation is a constitutionally mandated directive in governance which should apply to criminal justice administration. The time for Grameen Nyayalayas, which are talked about, has come. Limited criminal jurisdiction to settle disputes locally must be part of the function of Grameen Nyayalayas.

11. Criminal Justice and International Law

Several treaties and conventions to which India is a signatory have led to standard setting in different aspects of criminal justice. There is urgent need to revise statutory provisions and administrative regulations on behaviour of different criminal justice functionaries to bring the same in conformity with international human rights standards.

In fact, according to the Supreme Court, these treaties can be enforced as part of municipal law. Though India has not yet acceded to the Treaty of Rome, we need to take note of the establishment of the International Criminal Court to deal with “crimes against humanity”. Our criminal justice system must be able to give better justice than what any international court can possibly offer under prevailing circumstances. International co-operation in collection of evidence, extradition of fugitives, prevention of terrorism and organised crimes, sharing of intelligence and resources, training and equipment etc. has become a necessity today. The Board of Criminal Justice should monitor developments internationally and endeavour to maximise co-operation among countries and criminal justice institutions for improving the efficiency of the system.

12. Science, Technology and Criminal Justice

Developments in Science and Technology (S&T) have both positive and negative implications for the crime and justice scenarios. S&T can help solve more efficiently the problems and challenges of crime particularly those perpetrated with technological tools and devices. However, our criminal justice system has not been able to make full use of S&T tools in criminal investigation and proof because of lack of infrastructure, personnel and resources. Forensic Science has undergone tremendous changes and there must be a concerted, co-ordinated plan between the State Governments and the Central Government to develop the crime laboratories; to

update the relevancy and admissibility of scientific evidence; and to modernise the criminal justice system with the use of information communication technology. The National Policy should make it imperative for governments to commit adequate resources and to provide an effective legal-administrative framework to make criminal justice system depend more and more on scientific investigation and scientific evidence. In this regard, the initiative of Technology Information and Forecasting Advisory Council (TIFAC) of the Ministry of Science and Technology deserves to be strengthened.

Training, accreditation, standard-setting, professionalism and research should receive adequate attention if forensic science is to fully harnessed in the administration of criminal justice in future. The Union Government should sponsor a 'Science and Technology Mission for Effective and Efficient Criminal Justice' to be developed in the country in the next two Five-Year Plan periods.

Cyber crimes require priority attention in the scheme of things. The legal framework to deal with the same needs a continuous review and the capacity of the system to deal with changing patterns of cyber crime needs continuous upgradation.

Another significant area for policy development is in respect of security of our national assets not only on the land but also in the sea and in space. Given the advances in its scientific capabilities in outer space, India may have to enact its own national laws to safeguard its own strategic interests in space and regulating the launching and uses of space vehicles and objects. Similarly, the protection of the country's interests in the high seas require legislative changes based on international treaties and conventions.

Providing security to the bio-diversity and biological resources of the country is another area warranting attention in the national policy on criminal justice. Bio-terrorism is a possibility in future and criminal justice has to be prepared for such an eventuality. The Weapons of Mass Destruction (Prohibition of Unlawful Activities) Act, 2005 is geared by and large to export control. A number of offences are created under the Act, which interestingly, are supposed to be enforced by half a dozen Union Ministries including External Affairs and Defence but excluding Home Affairs, the nodal point in security matters. It is necessary to set up a National Authority, duly empowered to co-ordinate between all concerned agencies of the Government, and enforce the law to ensure security against catastrophic terrorism.

13. A National Strategy to Reduce Crime

India needs a national strategy to reduce crime. The national strategy should aim at crime prevention through education, mobilisation and involvement of different sections of the community. A "National Mission to Reduce Crime" is the need of the hour and it should be one of the main planks of the National Policy on Criminal Justice.

A full-fledged independent, professionally managed, Board of Criminal Justice should be immediately set up as a statutory body, at the Centre and in each State. The Board should have three specialised divisions—A Bureau of Criminal Justice Statistics (BCJS), a Research and Monitoring Division (RMD) and a Law Enforcement Assistance Division (LEAD). The BCJS should collect and collate all information relating to crime on a regular basis. The RMD should gather and experiment ideas through pilot projects in crime control and management, evaluate performance of all segments and recommend changes to make the system people-friendly and efficient.

The LEAD should experiment with public participation models to make the people's involvement at every stage of criminal justice administration possible and efficient. Delay reduction should be a major focus of the national strategy. It can be achieved by extensive use of modern technology, intensive training of personnel and better systems of performance evaluation and accountability. The Central Government should provide to the States, programme-based grants, distributed through the Board of Criminal Justice, duly guided by objectively-assessed performance on mutually agreed criteria. A management orientation is required in all segments of criminal justice, especially the criminal courts.

Criminal justice functionaries especially the police and prisons officials should have insurance cover for occupational risks. Service benefits of these personnel should be comparable to those in the Defence Services to attract talented persons to police/prison services.

A National Commission on Criminal Justice on the lines of the National Human Rights Commission, consisting of experts in crime and justice, should be put in place to evolve policies on a continuing basis and advise the Government on reforms in policies and structures. The Board of Criminal Justice can act as the Secretariat of the Commission which will provide the information and logistical support for criminal justice planning and evaluation, the twin functions of the Commission.

14. Funds for Criminal Justice Development

Criminal Justice in all its dimensions shapes the quality of governance and influences the perception of the people about the Government and the state. Whichever party in power, every Government is obliged to control crime and enhance the security perception of its citizens by effective management of criminal justice. This would imply that criminal justice is made integral to planned development of society, its economy and the well-being of the people. The Five-Year Plans have to have at their core the maintenance of public order and rule of law without which no development is possible.

Therefore, the Governments at the Centre and in the States should have strategic long-term plans and annual targeted plans in respect of criminal justice development covering the police, prosecution, judiciary and the correctional systems. A Judicial Impact Assessment statement should accompany criminal legislations in order to plan mobilisation and disposition of resources.

Appendix–A.8.2

Statement of the People's Convention on Judicial Accountability and Reforms

(New Delhi: March 10-11, 2007)

The judicial system of the country, far from being an instrument for protecting the rights of the weak and oppressed, has become an instrument of harassment to the common people of the country. In fact, it has become the leading edge of the ruling establishment for pushing through neo-liberal policies by which the resources such as land, water and public spaces left with the poor are being increasingly appropriated by the rich and the powerful. While the system remains dysfunctional for the weak and the poor when it comes to protecting their rights, it functions with great speed and alacrity when it is for appropriating the land to the rich and powerful, especially when it is for appropriating the land and public spaces from the poor. The courts are increasingly displaying their elitist bias and it appears that they have seceded from the principles of the Constitution, which set up a republic of the people who were guaranteed "Justice-social, economic and political."

The problems with the judicial system begin with the lack of access to the system for the weak and the poor, partly because of the procedurally complex nature of the system, which can only be accessed through lawyers who are unaffordable to the common people. On top of this is the delays and lethargy of the system, which makes justice a distant dream even for people who can afford access to the system.

Compounding this further is the problem of corruption in the system exacerbated by a total lack of accountability of the higher judiciary. The layers of protection from accountability afforded to judges include the lack of any effective disciplinary mechanism, the self-acquired protection from even being investigated for criminal offences, the virtual immunity from public criticism due to the law of contempt, and finally by the immunity from public scrutiny by another judicially created insulation from the Right to Information Act.

The most serious problem has, however, been created by the elitist and anti-poor bias of the judiciary. It has essentially become an instrument for protecting and furthering the interests of the rich and powerful, both Indian and foreigner. Thus judges, who have taken the Oath to defend the Constitutional principles of Justice—Social, economic and political, have ordered the bulldozing of the homes of lakhs of *jhuggi* dwellers, leaving them homeless on the streets. They have ordered the removal of lakhs of street and rickshaw pullers from the streets of Delhi and Bombay, thus effectively depriving them of their livelihood. By their 'creative reinterpretation' of labour laws they have effectively deprived citizens of the protection afforded by the laws. They have thus accomplished the corporate friendly 'labour reforms' which successive governments have not had the political mandate to do.

It is clear that the judicial system needs to be reclaimed and reinvented by the people of the country, so that it can come to function in accordance with the philosophy of the Constitution. The system will need to be cleared of procedural complexities and cobwebs so that it can be accessed by the common citizens without professional lawyers, who have become a part of the exploitative judicial system. It will need to be strengthened to deliver justice quickly, efficiently and

honestly. Whatever additional financial allocation of additional judges are required for this must be done. For this, the various layers of protection created to shield the judges from accountability would have to be peeled away. To begin with, the clause relating to scandalising the judiciary would have to be deleted from the Contempt of Courts Act.

The system of appointments of judges would have to be made transparent and as such the proposed appointees can also be scrutinised from the point of view of their sensitivity to the ideals of the Constitution. An independent Judicial Commission would be needed to examine complaints against judges and hold them accountable. The immunity from criminal investigation would need to be withdrawn. The Right to Information Act would need to be strictly enforced particularly for the judiciary. In fact, every Court Room judicial proceeding must be video-taped and its record be made accessible to the people.

None of these changes would, however, be made by the ruling establishment of the country without sustained public pressure from below. Both the executive and the judiciary are obviously happy with the existing state of affairs. The judiciary enjoys enormous power without accountability and the government is happy with a judiciary, which enthusiastically promotes its neo-liberal policies. The only judicial reforms that the government appears to be interested in is market oriented reforms such as increasing arbitration which is a form of privatised system of justice for the wealthy.

The judiciary has long been regarded as a holy cow that was considered out of bounds for people outside the select circle of lawyers, judges and government Commissions. It is increasingly clear that it would be suicidal for the common people to ignore it any longer. That is why several organisations, which work with common people, came together to organise this convention. We hope and expect that this convention will kick start a people's campaign and movement on this important issue. The contours and strategies of this campaign will be worked out, but one element would definitely be a concerted effort to keep a close watch on the actions and judgments of judges particularly from the point of view of class and communal bias, arrogance, corruption and non-adherence to Constitutional principles. The threat of contempt must be ignored and mass contempt will have to be committed if any attempt is made by the judiciary to use the contempt law to discourage this scrutiny.

This convention resolves to encourage people's organisations all over the country to initiate a sustained public campaign to reclaim the judiciary for "We the people" of this republic.

Source: People's Convention on Judicial Accountability & Reforms website: www.judicialreforms.org

Appendix–A.8.3

Executive Summary: Key Judicial Corruption Problems

(An Extract from Transparency International's Global Corruption Report 2007)

Corruption is undermining justice in many parts of the world, denying victims and the accused the basic human right to a fair and impartial trial. This is the critical conclusion of TI's *Global Corruption Report 2007*. It is difficult to overstate the negative impact of a corrupt judiciary: it erodes the ability of the international community to tackle transnational crime and terrorism; it diminishes trade, economic growth and human development; and, most importantly, it denies citizens impartial settlement of disputes with neighbours or the authorities. When the latter occurs, corrupt judiciaries fracture and divide communities by keeping alive the sense of injury created by unjust treatment and mediation. Judicial systems debased by bribery undermine confidence in governance by facilitating corruption across all sectors of government, starting at the helm of power. In so doing they send a blunt message to the people: in this country corruption is tolerated.

Defining Judicial Corruption

TI defines corruption as 'the abuse of entrusted power for private gain.' This means both financial or material gain and non-material gain, such as the furtherance of political or professional ambitions. Judicial corruption includes any inappropriate influence on the impartiality of the judicial process by any actor within the court system.

For example, a judge may allow or exclude evidence with the aim of justifying the acquittal of a guilty defendant of high political or social status. Judges or court staff may manipulate court dates to favour one party or another. In countries where there are no verbatim transcripts, judges may inaccurately summarise court proceedings or distort witness testimony before delivering a verdict that has been purchased by one of the parties in the case. Junior court personnel may 'lose' a file—for a price.

Other parts of the justice system may influence judicial corruption. Criminal cases can be corrupted before they reach the courts if police tamper with evidence that supports a criminal indictment, or prosecutors fail to apply uniform criteria to evidence generated by the police. In countries where the prosecution has a monopoly on bringing prosecutions before the courts, a corrupt prosecutor can effectively block off any avenue for legal redress.

Judicial corruption includes the misuse of the scarce public funds that most governments are willing to allocate to justice, which is rarely a high priority in political terms. For example, judges may hire family members to staff their courts or offices, and manipulate contracts for court buildings and equipment. Judicial corruption extends from pre-trial activities through the trial proceedings and settlement to the ultimate enforcement of decisions by court bailiffs.

The appeals process, ostensibly an important avenue for redress in cases of faulty verdicts, presents further opportunities for judicial corruption. When dominant political forces control the appointment of senior judges, the concept of appealing to a less partial authority may be no more than a mirage. Even when appointments are appropriate, the effectiveness of the appeals process is dented if the screening of requests for hearings is not transparent, or when the backlog of cases means years spent waiting to be heard. Appeals tend to favour the party with the deepest pockets, meaning that a party with limited resources, but a legitimate complaint, may not be able to pursue their case beyond the first instance.

The Scope of Judicial Corruption

An important distinction exists between judicial systems that are relatively free of corruption and those that suffer from systemic manipulation. Indicators of judicial corruption map neatly onto broader measures of corruption: judiciaries that suffer from systemic corruption are generally found in societies where corruption is rampant across the public sector. There is also a correlation between levels of judicial corruption and levels of economic growth since the expectation that contracts will be honoured and disputes resolved fairly is vital to investors, and underpins sound business development and growth. An independent and impartial judiciary has important consequences for trade, investment and financial markets, as countries as diverse as China and Nigeria have learned.

The goals of corrupt behaviour in the judicial sector vary. Some corruption distorts the judicial process to produce an unjust outcome. But there are many more people who bribe to navigate or hasten the judicial process towards what may well be a just outcome. Ultimately neither is acceptable since the victim in each case is the court user. In the worst judicial environments, however, both are tolerated activities, and are even encouraged by those who work around the courthouse. TI's *Global Corruption Barometer 2006* polled 59,661 people in 62 countries¹ and found that in one third of these countries more than 10 per cent of respondents who had interacted with the judicial system claimed that they or a member of their household had paid a bribe to obtain a 'fair' outcome in a judicial case.

Types of Judicial Corruption

There are two types of corruption that most affect judiciaries: political interference in judicial processes by either the executive or legislative branches of government, and bribery.

A. Political interference in judicial processes

A dispiriting finding of this volume is that despite several decades of reform efforts and international instruments protecting judicial independence, judges and court personnel around the world continue to face pressure to rule in favour of powerful political or economic entities, rather than according to the law. Backsliding on international standards is evident in some countries. Political powers have increased their influence over the judiciary, for instance, in Russia and Argentina.

A pliable judiciary provides 'legal' protection to those in power for dubious or illegal strategies such as embezzlement, nepotism, crony privatisations or political decisions that might otherwise encounter resistance in the legislature or from the media. In November 2006, for example, an Argentine judge appointed by former president Carlos Menem ruled that excess campaign expenditures by the ruling party had not violated the 2002 campaign financing law because parties were not responsible for financing of which 'they were unaware.'

Political interference comes about by threat, intimidation and simple bribery of judges, but also by the manipulation of judicial appointments, salaries and conditions of service. In Algeria, judges who are thought 'too' independent are penalised and transferred to distant locations. In Kenya, judges were pressured to step down without being informed of the allegations against them in an anti-corruption campaign that was widely seen as politically expedient. Judges perceived as problematic by the

1. For more on this survey, including a list of countries included in it, please see the research article on page 11 of the Report.

powerful can be reassigned from sensitive positions or have control of sensitive cases transferred to more pliable judges. This was a tactic used in Peru by former president Alberto Fujimori and which also occurs in Sri Lanka.

Key to preventing this type of corruption are constitutional and legal mechanisms that shield judges from sudden dismissal or transfer without the benefit of an impartial inquiry. This protection goes much of the way towards ensuring that courts, judges and their judgments are independent of outside influences.

But it can be equally problematic if judges are permitted to shelter behind outdated immunity provisions, draconian contempt laws or notions of collegiality, as in Turkey, Pakistan and Nepal respectively. What is required is a careful balance of independence and accountability, and much more transparency than most governments or judiciaries have been willing to introduce.

Judicial independence is founded on public confidence. The perceived integrity of the institution is of particular importance, since it underpins trust in the institution. Until recently, the head of the British judiciary was simultaneously speaker of the UK upper house of parliament and a member of the executive, which presented problems of conflict of interest. In the United States, judicial elections are marred by concerns that donations to judges' election campaigns will inevitably influence judicial decision making.

Judicial and political corruption are mutually reinforcing. Where the justice system is corrupt, sanctions on people who use bribes and threats to suborn politicians are unlikely to be enforced. The ramifications of this dynamic are deep as they deter more honest and unfettered candidates from entering or succeeding in politics or public service.

B. Bribery

Bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional 'fees' to expedite or delay cases, or to direct clients to judges known to take bribes for favourable decisions. For their part, judges may accept bribes to delay or accelerate cases, accept or deny appeals, influence other judges or simply decide a case in a certain way. Studies in this volume from India and Bangladesh detail how lengthy adjournments force people to pay bribes to speed up their cases.

When defendants or litigants already have a low opinion of the honesty of judges and the judicial process, they are far more likely to resort to bribing court officials, lawyers and judges to achieve their ends.

It is important to remember that formal judiciaries handle only a fraction of disputes in the developing world; traditional legal systems or state-run administrative justice processes account for an estimated 90 per cent of non-legal cases in many parts of the globe. Most research on customary systems has emphasised their importance as the only alternative to the sluggish, costly and graft-ridden government processes, but they also contain elements of corruption and other forms of bias.² For instance in Bangladesh fees are extorted from complainants by 'touts' who claim to be able to sway the decisions of a *shalish* panel of local figures called to resolve community disputes and impose sanctions on them. Furthermore, women are unlikely to have equal access to justice in a customary context that downplays their human and economic rights.

2. OECD/DAC Network on Conflict, Peace and Development Co-operation, *Enhancing the Delivery of Justice and Security in Fragile States*, August 2006.

Tackling Judicial Corruption

Our review of 32 countries illustrates that judicial corruption takes many forms and is influenced by many factors, whether legal, social, cultural, economic or political. Beneath these apparent complexities lie commonalities that point the way forward to reform. The problems most commonly identified in the country studies are:

1. **Judicial Appointments:** Failure to appoint judges on merit can lead to the selection of pliant, corruptible judges.
2. **Terms and Conditions:** Poor salaries and insecure working conditions, including unfair processes for promotion and transfer, as well as a lack of continuous training for judges, lead to judges and other court personnel being vulnerable to bribery.
3. **Accountability and Discipline:** Unfair or ineffective processes for the discipline and removal of corrupt judges can often lead to the removal of independent judges for reasons of political expediency.
4. **Transparency:** Opaque court processes prevent the media and civil society from monitoring court activity and exposing judicial corruption.

These points have been conspicuously absent from many judicial reform programmes over the past two decades, which have tended to focus on court administration and capacity building, ignoring problems related to judicial independence and accountability. Much money has been spent training judges without addressing expectations and incentives for judges to act with integrity. Money has also been spent automating the courts or otherwise trying to reduce court workloads and streamline case management which, if unaccompanied by increased accountability, risks making corrupt courts more efficiently corrupt. In Central and Eastern Europe, failure to take full account of the societal context, particularly in countries where informal networks allow people to circumvent formal judicial processes, has rendered virtually meaningless some very sophisticated changes to formal institutions.

Recommendations

The following recommendations reflect best practise in preventing corruption in judicial systems and encapsulate the conclusions drawn from the analysis made throughout this volume. They address the four key problem areas identified above: judicial appointments, terms and conditions, accountability and discipline, and transparency.³

Judicial Appointments

1. **Independent Judicial Appointments Body:** An objective and transparent process for the appointment of judges ensures that only the highest quality candidates are selected, and that they do not feel indebted to the particular politician or senior judge who appointed them. At the heart of the process is an appointments body acting independently of the executive and the legislature, whose members have been appointed in an objective and transparent process. Representatives from the executive and legislative branches should not form a majority on the appointments body.

3. These recommendations draw on a more extensive list, the 'TI Checklist for Maintaining Integrity and Preventing Corruption in Judicial Systems', which was drafted by Kyela Leakey with input from a number of senior judges and other experts from around the world. These are available from TI.

2. **Merit-based Judicial Appointments:** Selection criteria should be clear and well publicised, allowing candidates, selectors and others to have a clear understanding of where the bar for selection lies; candidates should be required to demonstrate a record of competence and integrity.
3. **Civil Society Participation:** Civil society groups, including professional associations linked to judicial activities, should be consulted on the merits of candidates.

Terms and Conditions

4. **Judicial Salaries:** Salaries must be commensurate with judges' position, experience, performance and professional development for the entirety of their tenure; fair pensions should be provided on retirement.
5. **Judicial Protections:** Laws should safeguard judicial salaries and working conditions so that they cannot be manipulated by the executive and the legislature to punish independent judges and/or reward those who rule in favour of government.
6. **Judicial Transfers:** Objective criteria that determine the assignment of judges to particular court locations ensure that independent or non-corrupted judges are not punished by being dispatched to remote jurisdictions. Judges should not be assigned to a court in an area where they have close ties or loyalties with local politicians.
7. **Case Assignment and Judicial Management:** Case assignment that is based on clear and objective criteria, administered by judges and regularly assessed protects against the allocation of cases to pro-government or pro-business judges.
8. **Access to Information and Training:** Judges must have easy access to legislation, cases and court procedures, and receive initial training prior to or upon appointment, as well as continuing training throughout their careers. This includes training in legal analysis, the explanation of decisions, judgment writing and case management, as well as ethical and anti-corruption training.
9. **Security of Tenure:** Security of tenure for judges should be guaranteed for around 10 years, not subject to renewal, since judges tend to tailor their judgments and conduct towards the end of the term in anticipation of renewal.

Accountability and Discipline

10. **Immunity:** Limited immunity for actions relating to judicial duties allows judges to make decisions free from fear of civil suit; immunity does not apply in corruption or other criminal cases.
11. **Disciplinary Procedures:** Disciplinary rules ensure that the judiciary carries out initial rigorous investigation of all allegations. An independent body must investigate complaints against judges and give reasons for its decisions.
12. **Transparent and Fair Removal Process:** Strict and exacting standards apply to the removal of a judge. Removal mechanisms for judges must be clear, transparent and fair, and reasons need to be given for decisions. If there is a finding of corruption, a judge is liable to prosecution.

13. **Due Process and Appellate Reviews:** A judge has the right to a fair hearing, legal representation and an appeal in any disciplinary matter.
14. **Code of Conduct:** A code of judicial conduct provides a guide and measure of judicial conduct, and should be developed and implemented by the judiciary. Breaches must be investigated and sanctioned by a judicial body.
15. **Whistleblower Policy:** A confidential and rigorous formal complaints procedures is vital so that lawyers, court users, prosecutors, police, media and civil society can report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers.
16. **Strong and Independent Judges' Association:** An independent judges' association should represent its members in all interactions with the state and its offices. It should be an elected body; accessible to all judges; support individual judges on ethical matters; and provide a safe point of reference for judges who fear they may have been compromised.

Transparency

17. **Transparent Organisation:** The judiciary must publish annual reports of its activities and spending, and provide the public with reliable information about its governance and organisation.
18. **Transparent Work:** The public needs reliable access to information pertaining to laws, proposed changes in legislation, court procedures, judgments, judicial vacancies, recruitment criteria, judicial selection procedures and reasons for judicial appointments.
19. **Transparent Prosecution Service:** The prosecution must conduct judicial proceedings in public (with limited exceptions, for example concerning children); publish reasons for decisions; and produce publicly accessible prosecution guidelines to direct and assist decision makers during the conduct of prosecutions.
20. **Judicial Asset Disclosure:** Judges should make periodic asset disclosures especially where other public officials are required to do so.
21. **Judicial Conflicts of Interest Disclosure:** Judges must declare conflicts of interest as soon as they become apparent and disqualify themselves when they are (or might appear to be) biased or prejudiced towards a party to a case; when they have previously served as lawyers or material witnesses in the case; or if they have an economic interest in the outcome.
22. **Widely Publicised Due Process Rights:** Formal judicial institutional mechanisms ensure that parties using the courts are legally advised on the nature, scale and scope of their rights and procedures before, during and after court proceedings.
23. **Freedom of Expression:** Journalists must be able to comment fairly on legal proceedings and report suspected or actual corruption or bias. Laws that criminalise defamation or give judges discretion to award crippling compensation in libel cases inhibit the media from investigating and reporting suspected criminality should be reformed.
24. **Quality of Commentary:** Journalists and editors should be better trained in reporting what happens in courts and in presenting legal issues to the

general public in an understandable form. Academics should be encouraged to comment on court judgments in legal journals, if not in the media.

25. Civil Society Engagement, Research, Monitoring and Reporting: Civil society organisations can contribute to understanding the issues related to judicial corruption by monitoring the incidence of corruption, as well as potential indicators of corruption, such as delays and the quality of decisions.

26. Donor Integrity and Transparency: Judicial reform programmes should address the problem of judicial corruption. Donors should share knowledge of diagnostics, evaluation of court processes and efficiency; and engage openly with partner countries.

These recommendations complement a number of international standards on judicial integrity and independence, as well as various monitoring and reporting models that have been developed by NGOs and governmental entities. They highlight a gap in the international legal framework on judicial accountability mechanisms. TI draws particular attention to the Bangalore Principles of Judicial Conduct, a code for judges that has been adopted by a number of national judiciaries and was endorsed by the UN Economic and Social Council in 2006. The Bangalore Principles go some way towards filling this gap, though they remain voluntary. In addition, the UN Basic Principles on the Independence of the Judiciary should be reviewed in the light of widespread concern that has emerged in the last decade over the need for greater judicial accountability.

There is no magic set of structures and practises that will reduce corruption in all situations. The country reports in part two of the *Global Corruption Report 2007* highlight the wide variety of recommendations for judicial reform that are context-specific and therefore not applicable in a general way. Differing situations may require measures that would not be helpful elsewhere. Nevertheless, the recommendations serve as a guide for reform efforts to promote judicial independence and accountability, and encourage more effective, efficient and fair enforcement. As this volume demonstrates, multi-faceted, holistic reform of the judiciary is a crucial step toward enhancing justice and curbing the corruption that degrades legal systems and ruins lives the world over.

9

Governance in Income Tax

The public/taxpayer comes in contact with Income Tax officials broadly with respect to the following activities:

1. Receipt of refunds after processing of returns u/s 143(1)(a).
2. Rectification u/s 154.
3. Giving Appeal Effect to Orders of Appellate Authorities.
4. Allotment of PAN and issue of PAN card.
5. Scrutiny of Returns for Assessments.
6. Search and Seizure Operation.
7. Survey Operation.

Generally speaking, public interface on account of the last three activities involves mutual corruption, whereas the interface on account of the rest of the activities involves extortionist corruption. This is a very broad categorisation and often-considerable overlap is witnessed. For instance, money is extracted from taxpayers with the threat that if the bribe is not paid, their case would be picked up in scrutiny. Or, the evidence filed with the returns for the taxes deducted at source would be destroyed/misplaced so as never to be retrieved.

Extortionist Corruption

As the name implies, such cases fall in this category wherein a common man is forced to pay bribes to get his due, legal and legitimate rights from the Government Department, which he should have got in normal course. Mr. N. Vittal, the former Chief Vigilance Commissioner of India, rightly calls this type of corruption as 'Financial Rape'. A victim of extortionist corruption feels cheated and harassed. He comes out of the Department cursing the concerned officials and the system. Hence, such cases of

corruption come to light very easily. In such cases, the giver of bribes directly suffers and does not gain anything material, which he would not have got, if the official had performed his job with expected integrity and efficiency. Let us now take a look at the nature of corruption and *modus operandi* in each of the activities before discussing the methods to combat it.

Receipt of Refunds

When a taxpayer files a return of income, this return is checked by the staff of the Department for any glaring and apparent mistakes like calculation errors. This is called processing and it is done u/s 143 (1)(a). After processing, the taxpayer is issued either a cheque (called Refund Voucher), if he is found to have paid excess taxes, or a demand notice if he is found to have paid less taxes than due. A return has to be processed within one year from the end of the Assessment Year to which the returned income pertains. Hence, any taxpayer, who has paid excess taxes and is expecting a refund, should reasonably expect to get the same by the end of the above time barring limit. However, rampant corruption is witnessed in the issue of refunds. Normally, 10 to 25 per cent (depending upon the amount due) of the refund amount (which may include interest payable on the refund amount in case of delay in granting the refund) is demanded as bribe.

There are a number of other methods used to harass a taxpayer, because of which he is forced to pay bribes. Some of them are:

- a. A number of taxpayers do not wish or cannot afford to wait till the end of one year after the Assessment Year to get their refunds. They are in need of money and wish to get it as soon as possible. They are thus forced to bribe the officials to get their refunds issued early. Earlier there were no norms or any timeframe for issue of refunds vouchers. Hence, it could be issued at any time, thus giving enormous leeway to the staff and officers. The officers would issue only those refunds for which they have been paid a bribe.
- b. In such cases, where the taxpayer does not approach the Department officials to get the refund, the staff or officials themselves contact the taxpayer directly and ask him to visit the office and collect the refund deviously after paying the customary money. If the taxpayer does not oblige, the staff, in order to complete the records that the return has been processed in time, processes the return, prepares the refund voucher and destroys it without actually despatching it to the taxpayer. Or, alternatively, an empty envelope under registered post is sent to the taxpayer

who unsuspectingly receives the same under his signature and finds the envelope empty. At a later stage, if the taxpayer approaches the department, he is told that the cheque was sent and it might have got lost in postage/was duly received by him as per the acknowledgment due bearing the recipient's signature. Many a times, the corresponding Advice Note required to be sent to the RBI/SBI is never sent at all thereby making it impossible to have the refund voucher encashed.

NGO Parivartan has come across a large number of taxpayers who have not received their very old refunds also. In numerous such cases all over the country, the files and records are reportedly missing, thereby making it impossible for the taxpayers to ever retrieve their monies unless they are prepared again to spend time as well as money.

Mutual Corruption

In this type of corruption, the giver and taker mutually decide to cheat the State. The giver derives direct or indirect benefit. Sometimes, money is paid, not for any immediate gains, but for expectations of exploiting the goodwill thus generated. In all such cases, none of the two parties come out and disclose it to anyone or curse anyone. Rather, the concerned official is heaped with lavish praises as a very cooperative and understanding officer. The exact details of such cases never come to light, unless probed by some investigative authority. It is only through hearsay that one hears of the possibility of the existence of such corruption. In such cases, both the giver and taker benefit and none of them suffer. It is the public that suffers because benefit imparted to the giver of bribes is at public expense/welfare.

The quantum of money involved in mutual corruption is far higher than that in extortionist corruption but extortionist corruption affects far more number of people especially at middle class level.

How to Deal with Mutual Corruption?

As mentioned in the foregoing paragraphs, mutual corruption is mainly for two reasons:

1. Excessive and Arbitrary Powers of Assessing Officers (AO) to estimate income/expenditure during scrutiny: There are a number of areas in which the Assessing Officers have such powers. But the most misused area is arbitrary disallowance of part of telephone and such other expenses attributing them to personal use. In this, the Government should come out with some direction that a fixed proportion of the total amount of expenses could be treated as

attributable to personal use, in the absence of any evidence. No taxpayer would grudge that, as it would save him the harassment at the hands of the AO through the practitioner (most of whom act as the liaison between the officers and the taxpayers for this purpose).

2. Tax Evasion: Most of the mutual corruption takes place in Income Tax Department because of the rampant and institutionalised tax evasion in our country. Almost all the businessmen are said to be evading taxes in one or the other manner. So, they pay bribes to the officials to avoid detection of such evasion or they pay bribes when their evasion is actually detected by the Department. There are three players involved, *viz.*, the taxpayer, the Income Tax Official and the Chartered Accountant/Advocate/Income-tax Practitioner (*i.e.*, the counsel/authorised representative of the taxpayer). The Department needs to tackle each of these players separately in the following manner:

- a. Income Tax Official: A number of steps need to be taken to prevent officials from falling prey to corruption. Some of these steps may be:

- (i) Incentives and Punishment: There should be a system of incentives for good work and deterrent punishment to mischievous and trouble makers bringing bad name to the Department. The government should reward, both monetarily and through faster promotions, the good work done by officials. Though, on paper, some such system is in place but it is almost non-functional. It is full of lacunae and it is very rare that good work is actually rewarded. Even if it is done, it takes inordinately long time and to recognise the efforts on the part of the official who has done good work. This should be made mandatory that any good case done by an officer, which gets confirmed in the first appeal, should be rewarded within six months of the appeal order, with 10 per cent of the tax evasion caught by the officer. Any officer having earned such money, would not be tempted to go for bribes, that too in black form.

It has also been seen that, in any transaction of bribery, normally the amount of bribe does not exceed 10 per cent of the tax evaded through that transaction. Hence, fast and mandatory rewards to officers in this manner can give excellent results in the long run. Similarly, there has to be

a deterrent for inefficient work. Cases should be picked up in scrutiny on the basis of very specific information and not otherwise. And once a case has been picked up in scrutiny or has been surveyed or searched, it should lead to a foolproof case of tax evasion having been established and should ultimately lead to the prosecution and imprisonment of the tax evader. If this does not happen, the concerned official should be taken to task for having harassed an honest taxpayer.

- (ii) Proactive Vigilance Machinery: Today, rampant corruption is perceived in the Department and still almost none of the officials get suspended or punished. Action is initiated against a very miniscule number of officers. Most of the Income Tax officials openly maintain a very extravagant lifestyle. Still the vigilance machinery, which is a part of the Department, takes no cognisance. It takes action that too seldom only on complaints received by them. It only shows its indifference. Here also, due to its indifference, the complainant is made to feel guilty and is harassed for having made the complaint. Also, the taxpayers hesitate in approaching the Department for fear of reprisal. Hence, the vigilance machinery should be manned by those honest and efficient personnel having no connection whatsoever with the Income Tax Department. It should develop its own network of information & investigations; and initiate action against the corrupt people *suo moto*.

Further, all those officials, whose action does not prove right or turned down by the appellate authority, should be punished severely for the harassment caused to the taxpayer. It is necessary to introducing accountability.

- b. Chartered Accountants/Advocates/Income-tax Practitioners: This class of 'professionals' is responsible for mutual corruption mainly by advising taxpayer the means to evade taxes. They not only encourage tax evasion but also are active partners/perpetrators in mutual corruption because no action is taken against them at all. Even if the misdeed is detected, it is the taxpayer who bears the brunt. Similarly, Chartered Accountants are required to audit the accounts of the taxpayers. While doing so, though they take fees for their services from the taxpayer (the client), yet they are supposed to act as agents of government and point out any discrepancies in the accounts.

However, it is found that in a number of cases, CAs give bogus certificates of audit even in the absence of accounts book. Licenses of such blatant CAs should be cancelled to introduce ethics and accountability among this class of professionals. In some countries, they have a system of blacklisting those Chartered Accountants/Advocates, whose maximum number of clients is found to be evading taxes.

- c. Taxpayer: Generally, taxpayer is the root cause of all the problems. It is because he indulges in tax evasion that the rest follows. Tax evasion needs to be effectively curbed. Till date, in the history of independent India, not even a single person has gone to jail for evading taxes. This is despite the fact that there is rampant tax evasion simply because either prosecution is not launched for tax evasion, and if it is launched, it takes a very long time to come to its logical end, by when, the records of the Department get lost, the concerned official retires out, the evidence is tampered with and/or the Department is not left with the requisite zeal by then. In some cases, the concerned taxpayer even dies. Under the circumstances, it is suggested that firstly, prosecution should be compulsorily launched in all the cases of tax evasion. Secondly, separate courts should be opened to deal exclusively with such cases to ensure speedy trial.

Grievance Redressal

Meanwhile, to make the grievance redress mechanism effective, the Government has constituted an Income Tax Ombudsman institution, where an aggrieved taxpayer can lodge his/her complaint if the taxman:

- a. delay in issue of refund,
- b. sending envelope without refund voucher,
- c. non-adherence to the principle of 'First Come, First Served' in sending refund,
- d. non-acknowledgement of letters or documents sent to the Department,
- e. not updating of demand and other registers leading to harassment,
- f. not responding to letters and reminders for refunds and/or allotment of PAN,
- g. is following non-transparent procedures and choosing a particular case for scrutiny year after year,

- h. non-adherence to prescribed working hours and standard of services, and
- i. any other kind of harassment, either in writing or electronically.

Initially they are located at New Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Ahmedabad, Pune, Kanpur, Chandigarh, Bhopal and Kochi. Address of New Delhi's Income Tax Ombudsman is:

Income Tax Ombudsman,
Room no. 251,
Central Revenue Building,
I.P. Estate,
New Delhi.
Tel No. (011) 2337 9925.

For further details, please log on to: www.incometaxindia.gov.in

Action Taken to Streamline System

As a result of PARIVARTAN's movement to improve governance in income tax services, it was agreed that:

- All the returns will be processed in strict chronological order except in the case of senior citizens or on medical grounds.
- Any grievance will be disposed off within 30 days.
- Any appeal effect will be given within 30 days.
- Any rectification application will be disposed off within 30 days.
- Any refund will be issued within 30 days of its determination.
- A separate Commissioner of Income Tax (Helpline) has been set up to attend to the grievances of taxpayers.
- Refund amount to be directly credited to the bank account of the taxpayers.
- The return receipt number upto which refunds have been issued in each ward/circle by the end of the previous month will be displayed on the notice board and website of the Department.

However, the Income Tax Department is perceived to have failed to honour its above commitments. Hence, there is a need to provide penalty for failure to follow the above time schedule and the service standards prescribed in Citizens' Charter. Besides, a need was felt to evolve a scientific method of sampling in order to eliminate the possibility of discretion in the selection of assesses for tax scrutiny.

Suggestions

Tax Scrutiny Proceedings: Taxpayers for such tax scrutiny proceedings should be selected at random. A taxpayer once selected for tax scrutiny proceedings should be excluded for a certain specified period, say five years or so.

Details of Information Sought: It should be mandatory for the taxman to mention the details of information sought in his enquiry notice issued under Section 143(2), etc. of the IT Act 1961, and that too only after recording the reasons for seeking such information. In case the reasons seeking information found illogical, the concerned official should be punished severely. Besides improving the image and perception of the Income Tax Department, it will introduce accountability.

Governance in Property Registration

Registration of property is another monopolistic public service with no option except to follow the prevalent procedure and be at the mercy of the concerned officials and touts. As a result, these services are perceived among the most corrupt ones.

According to a benchmarking study reported in September 2004 on the regulatory cost of doing business conducted across 145 countries, *inter alia*, concluded that the cost of registering a property in India takes about 67 days, as against the global benchmark of only one day in Norway.

India also proved to be one of the most expensive countries to register properties, with the cost of registration seen as a percentage of the property value as high as 13.9 per cent as against zero cost in Saudi Arabia. Besides, there are many other problems in registration process, primarily due to prevalence of manual system.

TI India Study of Property Registration Services

According to *India Corruption Study 2005*, nearly 80 per cent of the respondents perceived that the land Administration Department is corrupt. There is widespread ignorance among people about the rules and procedures to be followed. As a result, they face problems like not carrying proper documents, inability to properly fill in forms etc. and have to make repeated visits to the Department to complete these formalities or take help of middlemen. The most common difficulty faced by people was the prolonged wait for getting documents after registration. Having apprehensions that they just could not get their work done in the normal course, about 40 per cent of the respondents, who had interacted with the Land Administration Department, took recourse to alternative methods like exerting influence or bribery to save time. Another problem is nexus between officials at different levels, which makes it difficult to complain

about irregularities or corruption in the Department. More than one-third of the respondents claiming to have paid bribes, had paid money to officials like peons at Registrar's office, clerks handling documents, while one-third had paid money to agents/touts like documentation centres, property dealers etc, and 20 per cent had paid directly to the concerned Registrar. Among urban households, around 13 per cent had to pay bribe to Registrar against 28 per cent in case of rural households. However, in states with high level of computerisation, the presence of middlemen is reported to be significantly lower than other states.

Important Problems

Important problems can be summarised as follows:

- **Opaque System:** Due to monopoly of Village Record-keeper over these records, these are not easily accessible to public.
- **Prone to Manipulations:** There are large number of instances where government land is being shown in the name of private parties.
- **Harassment and Extortion:** Bribes have to be paid to make copies of land records available and also make changes in land title.
- **Bribes** have to be paid to get the documents registered and payment of required registration fee without hassle to the officials of the concerned office of the registrar.
- **Extortion:** Bribes in the form of commission, etc. have to be paid to purchase stamp paper from vendors and etc. treasuries due to cumbersome procedures. For example, stamp papers over and above the specified value are available at a few outlets and against the demand drafts, etc. As against this procedure, stamp papers of any value are available on payment of bribes because there is no transparency and accountability in the functioning of the concerned officials.
- **Delay in Delivery of Land Records:** Normally, delivery of land records' copy used to take up to 30 days.
- **Cumbersome Mutation Process:** Application is given to village official who exercises his discretion in processing it. Absence of any monitoring mechanism makes farmers amenable to pressures from the Department. Moreover, even where Village Accountants are law-abiding, oversight and accuracy continued to suffer as the number of records multiplied over generations and accountant/supervisors are burdened with numerous other regulatory and development responsibilities.

- **Cumbersome Crop Loan Mechanism:** Banks often ask various land records before sanctioning crop loans to farmers. Farmers, in turn, have to look for village officials with apprehensions that banks might still ask for some more documents. The delayed crop loan process causes harassment to farmers.
- **Delay in Disposal of Civil Litigations:** The Courts often call for various land records for disposing such litigations (which formed more than 70 per cent of total litigations). Records are not forthcoming from Village Accountants easily—resulting into delay in disposal of civil litigations. Farmers have to often wait for more than 5-10 years for a verdict on land litigations for delayed production of these records.

Suggestions to Improve Governance

- **Use of Technology:** A time bound action plan for computerisation of land records needs to be accelerated. Banks and other institutions can also be linked with land record database to ensure their easy access. The database should also indicate whether the land has already been hypothecated to some agency.
- **Reduce the Role of 'Deed-writer':** The role of deed-writers should be minimised to the extent possible by having standard format for various purposes like land registration, Power of Attorney, Sale Agreement, etc. These should be readily available to the people. Any change in these formats should be properly notified. Strict action against registered deed-writers' indulgence in corrupt practises could be considered.
- **Reforming Stamp Paper:** Encourage demat form of holding land titles on the lines of shares to avoid shortage and fake stamp papers. Till such time, the availability and accessibility of stamp paper should be enhanced. Besides treasury and designated venders, Banks and Post Offices should also be allowed to sell stamp papers.
- **Increase in Public Awareness:** Public should be made aware of the procedures and requirements for various services. There should be 'Single Window' approach; a 'help desk' to explain the people about procedures; adherence to time limit for each work like mutation, registry etc. failing which the service seeker should be compensated. Periodic performance surveys should be undertaken to monitor the satisfaction level with services of the Department. This report should be tabled in the concerned State Assembly for discussion.

- **Citizens' Charter** should be drafted in consultation with stakeholders, service providers and the concerned NGOs. Time limit and other standards indicated for various services should be adhered to and penal provision for non-delivery of the services within time frame should be specified in the Citizens' Charter. These should be clearly displayed at the Entrance and other prominent places of the Registry Offices to make public aware and have easy access to the Charter. Independent audit of performance of Dept. against standards mentioned in the Citizens' Charter to be taken up annually and made public.
- **Independent Complaint Redress Cell:** Every Registrar's office should have a complaint redress cell, like a Consumer Court, headed by a Public Ombudsman. Such Cell should have power to make random checks and probe, if there are any manipulations. Cases received and addressed should be prominently displayed to improve the confidence of public.

Part – III

Methods for Improving Governance

Towards Service Delivery Excellence

Improving Governance is a part of development process. It is argued that corruption can be curbed by bringing systematic changes in governance by introducing participation, transparency, accountability and probity in administration. The right to good governance is also considered as an essential part of the citizen's rights that one can expect from the administration. Accordingly, a number of initiatives have been taken by the government to incorporate citizen's concerns as inputs in the formulation of policy as well as in the quality and reliability of services. These can be brought through various tools, including the Citizens' Charters, Right to Information, e-Governance, Report Cards and Social Audits.

Citizens' Charters: In course of a National Seminar organised by TI India on August 24-25, 2005, it was stated that Citizens' Charters constituted a commitment of the Government towards the people. It is a revolutionary tool for good governance. However, it was argued that, on the British pattern, an automatic compensation mechanism should be put in place, to begin with, for four essential services, viz., electricity, water, gas and telephone, if the services were not delivered as per specified standards. To make citizens' charters effective, a need was felt, among other things, to enact a central legislation on the pattern of the Central Right to Information Act 2005 making provision for compensation in case of deficiency in promised standards of public services.

The Right to Information Act 2005: Right to information is a part of fundamental rights under Article 19 (1) of the Constitution of India. It empowers citizens to know their entitlement to avail a particular public service, and redress the grievance, if any. It also includes the 'Right to be Heard and Consumer Education', i.e., educating the consumer about his rights. It is based on the rationale of 'participatory, transparent and accountable governance.' Under the Right to Information Act, public servants can also be questioned on their conduct and, thus, made accountable.

Electronic governance or e-governance: It has emerged as one of the frontline applications to reinvent the way the government works, and to ensure better transparency and services to the public. It may, therefore, be defined as delivery of government services and information to the public using electronic means. Such means of delivering information in government facilitates an efficient, speedy and transparent process for disseminating information to the public and other agencies, and for performing government administration activities. It demonstrates how citizens relate to governments as much as to each other. Thus, e-governance allows citizens to communicate with government, participate in the governments' policy-making and to communicate each other. In other words, it is a must to:

- Provide the productive and efficient work to the people.
- Reduce corruption and differences among communities.
- Make efficient use of resources and time.
- Make use of latest technologies that make work sophisticated, speedy, easy and accurate.
- Acquaint the people about the government's role in socio-economic development.
- Remove the inner flaws in the working system.

Thus, e-Governance is considered an effective tool of improving governance and service delivery.

Citizens' Report Card (CRC) is a participatory service delivery assessment system and provides organisational leaders an opportunity to reform and reorient service delivery. It involves generation of credible user feedback on a variety of qualitative and quantitative indicators of services where random sample survey of users of public services based on a mix of household and exit interviews. The Public Affairs Foundation (PAF), Bangalore, is involved in this activity for some time. It is, however, hoped that preparation of such report cards and indices can only be useful if people were involved in making the use of the same.

Public Grievances Redressal

Besides, each department has now developed its public grievance redress mechanism by designating a senior officer for the purpose with authority to call for files/papers relating to grievances projected by the clients. The public is at liberty to approach him/her for seeking redressal of its grievances any time. He/she is obliged to remain available on every Wednesday between 1000 and 1300 hours. The grievance petitions should carry the following information:

1. Name & address of the Complainant.
2. Specifics of Grievance.
3. Designation & full address of the authority approached earlier.
4. Reference Number/date of the communication addressed earlier to the concerned authority, if any.

Failing in above efforts, the aggrieved party may contact:

For Departments other than the Cabinet Secretariat:

The Secretary, Deptt. of Adm. Reforms & Pub. Grievance,
5th Floor, Sardar Patel Bhawan,
Sansad Marg, New Delhi-110001
Telefax: (011) 2374 2133 & 2374 2546
e-mail: rajni.razdan@nic.in

or

The Addl. Secretary, Deptt. of Adm. Reforms & Pub. Grievance,
5th Floor, Sardar Patel Bhawan,
Sansad Marg, New Delhi-110001
Telefax: (011) 2374 1004 & 2374 1005
e-mail: as-arp@nic.in

or

The Dy. Secretary (Public Grievances),
Deptt. of Adm. Reforms & Pub. Grievance,
5th Floor, Sardar Patel Bhawan,
Sansad Marg, New Delhi-110001
Telefax: (011) 2374 5472
e-mail: mm.govil@nic.in

Only for Departments under the Cabinet Secretariat

The Director, Dte of Public Grievance (Cabinet Secretariat),
2nd Floor, Sardar Patel Bhawan,
Sansad Marg, New Delhi-110001,
Tel: (011) 2336 4875, 2336 3886, 2336 3733, 2374 3139
Fax: (011) 2334 5637
e-mail: ashokpai@dpgcs.delhi.nic.in
For details, see also <http://dpg.gov.in>
website: <http://www.spg.bharatsarkar.nic.in>

Analysis of Grievances

An analysis of grievances received by the Centre revealed that the majority of it related to inordinate delay in taking decisions, extending

from months to several years. Out of a total of 18,788 grievances received from April 1, 2004 to December 31, 2006 against different government agencies, 1,160 pertained to Telecommunications service providers like BSNL and MTNL. Passport Division of the Ministry of External Affairs, with 1,061 grievances, occupied the second place. The Railways with 922 complaints also fared badly in comparison to other departments. These are followed by Defence (928), Banking Division (731), Department of Labour (584), and Central Board of Direct Taxes (476).

Among the states, the number of grievances received was highest (1,216) against Maharashtra, followed by Uttar Pradesh (964), Karnataka (798), Tamil Nadu (658), Andhra Pradesh (358) and Gujarat (313).

It was observed that had the organisations concerned expeditiously and appropriately dealt with the grievances in the first instance, the complainants would have not approached the Department of Administrative Reforms & Public Grievances (DAR&PG).

Toll-free National Consumer Helpline

Besides, the Ministry of Consumer Affairs has initiated a Toll-free National Consumer Helpline (NCH) with the number: 1800-11-400 to create an alternate grievance redress mechanism for consumer complaints. When a consumer dials this number to get his complaint heard, it gets converted into data, which is transmitted to the concerned banks, companies, and organisations *via* e-mail. This initiative—Convergence@NCH—is expected to lower the dependence on overburdened consumer courts, banking ombudsmen and the Reserve Bank of India.

Non-Official Initiative: Following the sad demise of Satyendra Dubey, a whistleblower, who had to die because he dared to expose corruption, a group of eminent and concerned citizens have formed a Citizens' Forum Against Corruption (CFAC) to provide a credible platform to whistleblowers and entertain their complaints. These eminent and concerned citizens are retired judges, advocates, activists, retired police officers, retired civil servants and members from various sections of society. Cases of corruption, along with evidences and details of efforts made to redress the grievance, may be sent to:

Shri Pabitra Roychoudhry,
C-67, Sector 14, NOIDA, Uttar Pradesh.
Tel.- (0120) 2512695.
Mobile- +9810243553
Fax: (0120) 2512694

12

Citizens' Charters

A Citizens' Charter represents the commitment of an organisation towards standard, quality and time frame of service delivery, grievance redress mechanism, transparency and accountability. Based on the anticipated expectations and aspirations of public, Citizens' Charters are to be drawn up with care and concern for respective service users. They enable the service seekers to avail the services of the government departments with minimum inconvenience and maximum speed. For this, the Citizens' Charters are expected to indicate 'WHERE TO GO' and 'HOW TO PROCEED'. On the other hand, it makes the service providers aware of their duties to attend to the problems of the concerned citizens within a reasonable time frame. Thus, the dissemination of information about the Charter's contents for the awareness and sense of responsibility & accountability among all are the keys to practical application of Citizens' Charter in any area.

As on March 31, 2007, 118 Citizens' Charters had been formulated by the Central Government Ministries/Departments/Organisations and 649 Charters by various agencies of State Governments & Administrations of Union Territories. Most of the national Charters are posted on the government's websites and are open to public scrutiny. These can be accessed from the government website: www.goicharters.nic.in

Suggestions and grievances can also be communicated to:

The Dy. Secretary (Public Grievances),
Department of Administrative Reforms & Public Grievances,
Government of India,
Vth Floor, Sardar Patel Bhawan,
New Delhi-110 001.
Tele-fax: (011) 2374 5472
e-mail: mm.govil@nic.in
or log at: <http://darp-grievance.nic.in>

Some Essential Ingredients of a Citizens' Charter

Every Charter is a solemn commitment of the government or public sector institution for delivery of services to the intended beneficiaries. Very briefly, the basic and essential ingredients of a citizens' charter are:

- listing of specific services offered by the Department;
- location and timings of offices connected with the delivery of services;
- the names (with address and telephone number) of the officers responsible for delivery of the aforesaid services;
- the time required for the delivery of each service;
- the grievance redress authority in case the services promised are delayed or denied; and
- provision of a 'compensation clause'.

Some Obvious Deficiencies in the Existing Citizens' Charters

According to a study undertaken by TI India in May 2002 about the degree of application of the Citizens' Charters in respect of eleven Departments of Delhi Govt. and two Central Government Departments, namely, DDA and Income Tax, the following problem areas were identified:

- Lack of infrastructure and initiative.
- Lack of awareness and knowledge and adequate publicity, hence loss of trust among service seekers.
- No training to the operative and supervisory staff.
- Hierarchy gap between the officers and the operative staff.
- Different mind-sets of officers and the staff. Insensitiveness on the part of the supervisors and the staff.
- Staff is not prepared to shoulder the responsibility due to lack of motivation and accountability.
- Non-revision, complicated and restrictive rules & procedures.

Recommendations

The present Citizens' Charters in general have been found to be deficient, particularly in respect of the above mentioned aspects. Therefore, the Study made the following recommendations:

Change of Mind-set: There is a need for the officers and staff dealing with the public to realign the mindset from the present *Raja-Praja*

syndrome for establishing harmonious relations between the service providers and the service users/consumers. The service standards promised by a department should be rendered without any discourtesy, annoyance or harassment. In this connection, the oft-quoted statement of Mahatma Gandhi, Father of our Nation, bears reiteration:

A customer is the most important visitor on our premises.
 He is not dependent on us; we are dependent on him.
 He is not an interruption on our work; he is the purpose of it.
 He is not an outsider to our business; he is part of it.
 We are not doing him a favour by serving him,
 He is doing us a favour by giving us an opportunity to do so.

The foregoing inscription in bold letters should also be displayed near the entrance of every department dealing with the public. The introduction of customer and people's orientation in administration and the adoption of Citizens' Charter ought to represent more than a philosophical statement. They have to be seen really as what they are, a paradigm shift in the way administration has functioned so far. The public agencies have to collaborate in the institutionalisation of the new attitudes and changed procedures, and in the required capacity-building of the personnel at the managerial and cutting-edge levels.

Awareness and Consultation: About 70 per cent of the intended beneficiaries are not aware of the existence of the Citizens' Charter at all. How can then they ever demand its implementation? What is worse, most of the personnel in a Government department themselves are not aware of the existence of a Citizens' Charter in their department. Consequently, it is recommended that:

- The Citizens' Charter should be prepared in consultation with the employees of the department dealing with the public, in addition to its officers and the service users, by publishing the charter and inviting suggestions from all concerned.
- The Citizens' Charter shall be displayed (in English, Hindi and the local language) prominently at the entrance of the department concerned, These should be printed and made available with the Receptionist or the Public Relations Officer (PRO), so that any citizen going to the Department can have it free of charge.

Introduction of e-Governance: To take the maximum advantage of the progress in information technology, Citizens' Charter should form a part of the Government's website. All incoming letters, applications and complaints should be computerised, and the current status be reflected on the Internet. As a result, it should be possible for any applicant or complainant to ascertain the progress in his case without visiting the office or to take

the help of a *Dalal* or tout. On receipt of any application, it should be incumbent on the department to immediately point out to the party, if there is any deficiency.

Compensation: It is essential to provide in every Citizens' Charter a clause stating the compensation payable, if the promised service is not delivered in time. This alone will make the officer concerned with the delivery of the specific service fully accountable for any delay or denial of that service. Such a provision exists in several Citizens' Charters (particularly relating to the critical services like water, electricity, telephone and gas) in UK. In certain Citizens Charters in Andhra Pradesh, compensations have been provided for and paid. A precedent for payment of penalty or compensation also exists in the Central Right to Information Act 2005 and some other similar States' Acts.

It is, therefore, recommended that a central legislation may be enacted on the pattern of the Central Right to Information Act 2005 making provision for obligatory compensation in case of deficiency in promised standards of public services. The proposed compensation should be paid by the department concerned to the aggrieved citizen without his going to a Court. However, the payment of compensation recommended as aforesaid, shall not be the end of the matter because the principal object of the delivery of service is not achieved. In case there is a default even during the extended period, the citizen concerned shall refer the matter to the Citizens' Ombudsman.

Review: Every Citizens' Charter should be reviewed periodically by the Head of the Department concerned, in consultation with the service users and the Citizens' Ombudsman. The date of issue of every Citizens' Charter shall be mentioned on it.

The Citizens' Ombudsman (Lok Prahari): A small committee of the following should function as Citizens' Ombudsman (Lok Prahari) attached to every Department, for which a Citizens' Charter has been issued, to address citizens' problems:

- (a) An expert or specialist having knowledge of the department: This person could be a superannuated officer who may have knowledge about the working of the department or say in the case of health, a doctor and in case of PWD, a civil engineer.
- (b) A Representative of the Service Users' Association: Where no such association exists, the department shall try to promote one.
- (c) A social activist representing any NGO interested in the work of Citizens' Charter's implementation. TI India can suggest a few such bonafide NGOs, if desired.

The Citizens' Ombudsman should have access to files and documents connected with a grievance and be entitled to meet any assistant or officer of the department, including the Head of the Department to ensure justice and fair play to the citizen. Where necessary, the Citizens' Ombudsman will have access to the Department of Public Grievances to seek redress for the wronged citizen.

Where a bribe has been demanded from the citizen, he shall report the matter to the Citizens' Ombudsman. If satisfied that the complaint is genuine, the Citizens' Ombudsman will request the Vigilance Department to take action against the erring official.

Citizen's Duties: It is important that every citizen should also be aware of his duties. Such duties have been spelt out in Article 51A of the Constitution of India. In addition, the specific duties relevant to a Citizens' Charter shall also be spelt out clearly. Both these duties, general and specific, shall constitute an important part of the Citizens Charters.

Orientation of Officers and Staff: There is an urgent need to impart information and training to officers and staff regarding the necessity for the properly formulated Citizens' Charter, their active role in the formulation and wholehearted cooperation in their implementation.

Study of the Department of Administrative Reforms & Public Grievances (DARPG)

These findings have been confirmed in another study of a professional agency sponsored by DARPG in 2002-03 for developing a standardised model for internal and external evaluation of Citizens' Charters in a more effective, quantifiable and objective manner. This agency carried out evaluation of implementation of Citizens' Charters in 5 Central Government Organisations and 15 Departments/Organisations of States of Andhra Pradesh, Maharashtra and Uttar Pradesh. Its major findings were:

- (i) In majority of cases, charters were not formulated through a consultative process.
- (ii) By and large, service providers are not familiar with the philosophy, goals and main features of their Citizens' charter.
- (iii) Adequate publicity to the charters had not been given in any of the departments evaluated. In most departments, the charters are only in the initial or middle stage of implementation.
- (iv) No funds have been specifically earmarked for awareness generation of Citizens' Charter or for orientation of staff on various components of the charter.

Its key recommendations, *inter alia*, include:

- (i) need for citizens and staff to be consulted at every stage of formulation of the charter,
- (ii) orientation of staff about the salient features and goals/objectives of the Charter; vision and mission statement of the department; and skills such as team building, problem solving, handling of grievances and communication,
- (iii) need for creation of database on consumer grievances and redress,
- (iv) need for wider publicity of the charter through print and electronic media, posters, banners, leaflets, handbills, brochures, local newspapers, etc.,
- (v) specific budget allocation for awareness generation and orientation of staff, and
- (vi) replication of best exemplary initiatives.

A model has been developed in Pune district of Maharashtra, which attempts to deliver the Citizens' Charter of the district administration through innovative use of information technology. By integrating backroom processes, it provides for single-window delivery of public services. The documentation of the performance of this windows system shows that out of 9,36,737 applications received for public service delivery during the period between October 1998 and November 2000, 9,19,408 (98%) were attended to the satisfaction of the citizens, and 9,07,708 were adhered to the quality of service standards prescribed in the Citizens' Charter.

TI India's Suggested Guidelines for the Citizens' Charters

- (1) List all offices according to type of services they provide to public: Indicate their location, areas they cover, type of services being rendered to public, phone numbers.
- (2) There should be a separate Citizens' Charter (i.e., Local Citizens' Charters) for each office covering the services they provide. For example, there should be a separate Charter of the Directorate, its subordinate offices, hospitals, schools, etc. according to the particular services they provide.
- (3) Mention Service Standards: Step-by-Step-Procedure based on 'where to go; how to proceed', simple and easy to fill-in forms, specimen of duly-filled in forms, documents, fees, etc., required, reasonable time schedule, Do's & Don'ts, etc., names, addresses

Effective Grievance Redress Mechanism

Time Limit	Officer to be approached	Meeting Time	Phone Nos.		Information Officer			Compensation to Complainant	Remarks
			Office	Res.	Name	Tel No			
						Off.	Res		
10	11	12	13	14	15	16		17	18

Note: Every Citizens' Charter has to be finalised after having a detailed discussion with the concerned service providers, service seekers and the genuine NGOs representing the concerned citizens and services.

Keeping the above guidelines in view, an attempt has been made to draft Model Citizens' Charters in respect of four of the essential public services, namely, police, hospitals, public distribution system and the primary education. These drafts have been appended at the end of the respective Chapters in Part IV of this book.

The status of Citizens' Charter and grievance redress mechanism are to form a part of the Annual Report of all the Ministries from 2006-07 to confirm the organisation's commitment towards citizen centric governance. The importance of benchmarking the quality of service is being impressed upon various departments through all means available.

Charter Mark Scheme

The Department of Consumer Affairs, through the Bureau of Indian Standards (BIS), is promoting the concept of Indian Standards, laying down detailed procedures, audit mechanisms and manuals for enabling institutions, both government and public, to achieve levels of compliance with specified standards of performance. While BIS has developed the generic requirement standard, all Ministries/Departments will develop sector specific standards for their areas of operation. To institutionalise the certification mechanism, all the Ministries and Departments will be mandated to start preparing for achieving certification within two to three years and give a credible action plan along with the roadmap by which they aim to achieve it. The Ministry of Consumer Affairs and DARPG will monitor progress and coordinate capacity building efforts.

Accordingly, a Committee, comprising BIS, DARPG, Quality Council of India (QCI), NPC, RITES and Tata Consultancy Services Limited (TCSL), has formulated a standard based on the model discussed above. The generic requirement standard has been finalised after obtaining comments from Ministries/Departments of Government of India as well as from the citizens by putting it on the website of BIS. An organisation which meets Indian

Standard 15700:2005 will be entitled for *Sevottam* certification, *Sevottam* being the Indian name for excellence in service delivery. Given the largely negative opinion prevalent about the quality of government services in the country, the implementation of *Sevottam* is going to be a challenging exercise.

Initial Difficulties

Following the introduction of the Charter Mark Scheme by the United Kingdom for the first time to create a quality certification exclusively for government agencies, adoption of a similar approach in the Indian context may encounter initial difficulties as, among other things, the implementation of Citizens' Charters is still a far cry and they contained anomalies in several cases. However, from the Charter Mark's view, several factors needed to be taken into account in formulating Citizens' Charters. These may include capability to address needs of different types of customers, e.g., rural *versus* urban; standards of services could legitimately differ across locations; the standards needed to be based on realistic possibilities obtaining at present rather than on aspirational ideals for the future, and the standards should take infrastructure issues into account otherwise they would be unrealistic and not sustained by motivation. Besides formulating realistic and effective charters, there are other equally important issues such as, consultation process for Charter formulation; dissemination of Charter contents; monitoring and improving compliance of standards, and review of Charters based on emerging requirements.

e-Citizen Charter

What can citizens expect when e-Government is finally implemented? The e-Citizen's Charter provides the answer. This charter consists of quality standards that define the digital relation between citizen and government (both in the field of service delivery, information exchange and participation). These standards are formulated as rights citizens are entitled to, and matching obligations by government bodies. They are in the interest of both citizens and government. By making e-Government tangible in the front office, it gives incentives to back office reorganisation. Thus, the charter is an instrument to stimulate the further development of e-Government from the citizen's perspective.

The e-Citizen Charter is first of all based on research into existing quality systems and several surveys of citizen's expectations. Their findings were consolidated and presented for public scrutiny. On the basis of the many comments and suggestions received, an improved version 2.1 has been drafted at the end of 2005.

The e-Citizen Charter has from the start been conceived of as model to be further developed *via* an open procedure. This was done by publishing it

as a workbook that invites thinking, instead of a manual that should only be studied. The current personal workbook (which is available in several formats, including an online version) allows the owner to write down his or her remarks and criticism. The contributions of about 500 persons from different backgrounds have been used to create version 2.1.

Right to Information



Right to Information Act 2005 came into force on 12th October, 2005. The Act extends to the whole of India except the State of Jammu & Kashmir. This Act will have jurisdiction over every public authority in the country. In States, which have already passed or plan to pass such laws, both the state and the Central Acts will coexist, giving citizens a choice.

Main Features

According to the Act, information means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any form. The definition also includes “information relating to a private body which can be accessed by a public authority under any law.”

In keeping with best practices in some of the Indian States, information also includes the right to:

- i. Inspect public works, documents, records.
- ii. Take notes, extracts or certified copies of documents or records.
- iii. Take certified samples of material.
- iv. Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.

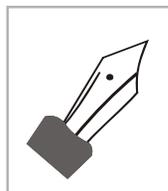
There is an interesting variation on promoting disclosure by private bodies. It has been designed to keep the onus on the Government to collect information from private bodies, rather than requiring the public to chase private bodies themselves.

- It empowers all individuals by providing penalties on erring officials for not providing information or misinforming, and thus ensures administration is accountable, and to bring transparency in sections of the government.
- Under the Act, ten categories of information are exempted from disclosure. However, it allows a public authority to disclose even exempted information if disclosure is in public interest like human rights violations or corruption.
- There will be independent information commissions as appellate bodies at the central and state levels to enforce the Act, and harsher penalties for officials for non-compliance. In case of any information termed as 'confidential', provision has been made for additional 15 days' third party hearing to provide the information sought. Similarly, although information about the private sector cannot be sought directly, a public authority can access it under any other law for the time being in force.

Thus, this Act chiefly provides:

- (1) The Indian president will appoint a Chief Information Commissioner (CIC) and Governors of States, State Information Commissioners (SIC) to implement the Act. They will be autonomous functionaries with a five-year term.
- (2) The CIC and SIC will publish an annual report on the implementation of the Act.
- (3) The annual reports will be tabled before Parliament/State Legislatures.
- (4) 'Information' about events that took place 10 years before the date of request can be provided.
- (5) Provision for varying penalties or fines (Rs. 250 per day and to a maximum of Rs. 25,000) for delaying without reasonable cause beyond the stipulated 30 days, including malafide refusal to give or destroying information or knowingly giving out wrong information to an RTI applicant.
- (6) Government bodies have to publish details of staff payments and budgets.
- (7) An applicant has been given the choice to make a request either under provisions of the Central Act or the State Act. (Eight State governments have their own Right to Information laws.)

Appeal Procedure



According to Appeal Procedure, First Appeal has to be filed with the senior officer of the concerned PIO within 90 days, failing which the Second Appeal can be filed with the Central/State Information Commission (CIC/SIC). Contents of Appeal have been given at the end of this chapter.

Road Map

Who: Anybody can seek any information, which is not sensitive and having no security implications.

What: Any information, which is normally available to a Member of Parliament or Member of Assembly, related to any occurrence, event or matter that has taken place 20 years before the date on which the request is made u/s 6. There is no need to give reasons for seeking information.

Where: Every Department has a Public Information Officer (PIO) to facilitate the process. A detailed list of PIO (along with contact details) is available on the website *www.rti.gov.in*.

Whom: In case of any difficulty, send your request to the concerned PIO c/o concerned Head of the Department. Information can be sought either under the Central Act or the concerned State's Act, depending on the choice of the applicant. There are nine State Governments which have their respective information laws.

How: File an RTI application on a blank sheet of paper stating the details of the information being sought with an application fee of Rs. 10/- to the concerned APIO/PIO. However, some State Governments have prescribed some formats and their fee varies. For their details: log on to *www.righttoinformation.org*. Specimen of such letter and the Form are given as Annexures 13.1 and 13.2 at the end of this Chapter.

When: Time limit to get the information is 30 days from the date of application. Five days are to be added in case the application has been submitted to the Assistant Public Information Officer. If an interest of a third party is involved, then the time limit is 40 days (maximum period + time given to the party to make representation). Failure to provide information within the specified period is a deemed refusal. In case the information sought relates to life and liberty of a person, the time limit is 48 hours.

Appeal: Failure to provide information, including not accepting application, delaying information without reasonable cause, malafidely denying information, knowingly giving incomplete, incorrect, and misleading information, destroying or obstructing the furnishing

information without reasonable cause is considered a deemed refusal. In such cases, the applicant is advised to appeal to the next higher officer to the APIO/PIO whom the application was initially submitted. If he is also failed to satisfy, then the applicant can file his appeal (a specimen of the contents of such appeal is given as Annex. III at the end of this Chapter) to the Central Information Commission, Club Building, Old JNU Campus, Block IV, 5th Floor, New Delhi-110067 or the concerned State Information Commission.

Penalty: After the specified time limit, every PIO is liable for a fine of Rs. 250/- per day, upto a maximum of Rs. 25,000/-, for failure or delaying information without reasonable cause.

Constitution of the Central Information Commission

*IInd Floor, 'B' Wing, August Kranti Bhawan, Bhikaji Cama Place,
New Delhi-110066*

1	Shri Wajahat Habibullah	Chief Information Commissioner.
2	Shri A.N. Tiwari	Information Commissioner.
3	Shri O.P. Kejariwal	Information Commissioner.
4	Shri M.M Ansari	Information Commissioner.
5	Smt. Padma Balasubramanian	Information Commissioner.
Secretary	Mrs. Rita Sinha, Telefax (011) 2616 7932	
Joint Secys	Shri Tarun Kumar, Tel. (011) 2671 7352 Shri L.C. Singhi, Tel. (011) 2610 5021 e-m: lcsinghi@nic.in	
Deputy Secy.	Shri P.K.P Shreysa, Tel. (011) 2671 7354 e-m: pkp.shreyaskar@nic.in	

Its website is www.cic.gov.in.

Manjunath Trust National Helpline 080-666-00-999

Weaknesses

The Indian law is considered to be among one of the most progressive RTI laws enacted by more than 66 countries. The problem lies with its 'mala fide' interpretation flouting basic principles of natural justice, because most of the information commissioners are former bureaucrats. They do not have the will and strength to make governance transparent and hence are not willing to leave their old mind-set.

However, those instrumental in drafting the bill considered it a watered down version of the suggested one because it denies people the vital information they need to hold public authorities accountable. Members of the National Advisory Council (NAC) believe this Act has taken away access given in the original draft to information from state governments, district authorities and local bodies.

A number of exemptions will also continue to apply on some information which is more than 20-years old, most notably, the information classified as 'prejudicially affecting the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relations with foreign states which would lead to the incitement of an offence', the Cabinet exemption, and the exemption for information which would cause a breach of parliamentary privilege, if disclosed. Similarly, there is some information, particularly on service matters of the employees working with the security organisations, exempted under Section 24 of the Right to Information Act 2005. This information is being denied under the pretext of 'exemption', otherwise available to various courts of law and has no security implications whatsoever.

Awareness Campaign on Right to Information



A nationwide awareness-cum-assistance campaign was launched by Parivartan and other NGOs with the help of eight media partners from July 1-15, 2006 at various centres in 48 cities in 16 States. Here, people were encouraged by more than 1,500 trained volunteers (mostly students) to use Right to Information Act and not to pay bribes. During this campaign, a National Helpline +92504 92504, postal address to receive queries, SMS facility to get details of venue of camp and a website: www.righttoinformation.org were provided to create awareness and assist the citizens.

As a result, 34,453 persons visited the centres and filed 13,330 applications. In addition, 19,536 calls were received for queries. People have used RTI in various ways ranging from addressing issues related to their daily interface with government authorities to influencing major government policies. Thus, the campaign has succeeded in creating wide awareness about the Right to Information Act, which has emerged as a powerful tool in the hands of common citizens to hold governments accountable.

Besides, the Maharashtra Right to Information Commission also launched a fortnight-long campaign to create awareness of the provisions of the Right to Information (RTI) Act, especially in the rural areas in the state. It observed that the appeals from urban areas are much more than those from rural pockets. Maximum applications (or appeals) were against Municipal Corporations and Councils, followed by Education Department, Police and Revenue.

Impact of the Awareness Campaign

The immediate impact of the above awareness campaign has been that it has generated widespread awareness and people have started making increasing use of RTI Act. It has created a kind of fear of exposure in bureaucracy and the corrupt politicians. As a result, just six months after the Act has come into force, the bureaucracy has intervened and convinced the government to accept its 'right' to stonewall queries about decision making. Accordingly, the Union Cabinet has approved a set of amendments, some of which will crucially damage the scope and power of the Act. The most critical of these relate to barring the disclosure of 'file notings' in all areas except social and development sector projects from the purview of the law and the Cabinet papers. Consequently, the process of decision making has been kept out of the public domain. Thus, the euphoria created by the RTI Act to bring transparency and accountability in the functioning of public institutions and to reform the government has been short-lived.

Bihar's Exemplary Initiative

As an example for other States, Bihar, in coordination with NGO Parivartan, launched a help line service (0612-155310) for RTI applicants. Under the system, an applicant, instead of writing to seek information and submitting it to concerned departments, may dial (0612) 155311 requesting to send an application to the concerned official with a duplicate copy to the District Magistrate (DM) through e-mail, followed by a fax message and a copy to the caller's address within three days. Thereafter, the caller will be given a special number for follow-up action. A training programme for all officials, including DMs, PIOs, and APIOs, is also planned. The call centre service will save the common man from the nitty-gritty problems of RTI applications.

Report Card of the Right to Information Act

The Centre for Civil Society (CCS) has examined the implementation of the RTI Act in all States, except J&K, to judge the compliance of Section 4 (i.e., Duty to Publish or DTP), which makes it compulsory for States to give *suo moto* certain information relating to the functioning of the administration to the public. The Study found that only eight of the 29 States and five UTs have ranked above 50 per cent in RTI compliance. States like MP, Uttaranchal and Chandigargh were on top with 70 per cent compliance. These were followed by Punjab and Delhi. Manipur and Tamil Nadu ended up with 5 per cent and States like Assam, Jharkhand, and Sikkim joined Dadar & Nagar Haveli and Daman & Diu at the end of the list.

It is expected that better implementation of DTP would remove some of the obstacles that the bureaucracy complains about because with most of the information on the website, offices would then be inundated with much fewer appeals and ensure better implementation of the Act.

On-line Proformas and Applications' Status

Meanwhile, the Central Vigilance Commission (CVC) vide its circular issued on November 22, 2006, has asked all public dealing departments to put all forms/proforma on their websites in a downloadable form by January 1, 2007, and make available on-line status of applications pending with them, including the deficiencies, if any, in the documents by April 1, 2007. The CVC has also proposed to recommend disciplinary action against officials who fail to do so. This is an effort to minimise personal contact and scope for arbitration, which breed corruption. It would also help the foreigners who have to approach the Foreigners' Registration Office with their applications for stay/work permit or extension of visas.

Public Hearing on Right to Information Act

As per Public Hearing (Delhi: September 24, 2006), and attended by Chief Information Commissioner Shri Wajahat Habibullah and Information Commissioner Shri O.P. Kejriwal along with a large number of concerned citizens, CIC had received 3,059 applications till September 8, 2006. Out of these, it could dispose-off only 1,531 cases. An examination of appeals pending with CIC reveals that, on an average, an appellant has to wait at least seven months to be heard. And if this practice continues, this waiting time is all set to increase to two years in about two months. Further, of 568 appeals before CIC, 309 cases (54 per cent) were disposed of without even being heard. According to RTI Rules, it is the duty of CIC to give the appellant an opportunity to be heard. Of the 1,531 cases, CIC has given two orders issuing penalties against officers. Among them, it has already withdrawn one order, it was in the process of withdrawing the second one as well.

There are broadly three types of problems being faced by the people in their interface with the Chief Information Commission:

- The first and most important is extremely slow functioning (or almost non-functioning of the Commission). The Information Commissioners are frequently refusing to provide various information under the pretext that 'it would violate the privacy.' Such information pertains to:
 - Copies of applications and marks given by interview Board.
 - Minutes of the Departmental Promotion Committee.

- Copy of medical report.
- Files pertaining to introduction of user charges by AIIMS.

In fact, Information Commissioners are not empowered to change the concept and definition of information. Thus, Commission appears to be functioning in typical bureaucratic style and in the firm grip of lower bureaucracy. (As against this, the Chairperson of Public Grievance Commission (PGC), Delhi, which is an appellate authority under Delhi RTI Act, disposed off roughly 500 cases in the last 10 months, i.e., 50 cases every month. She works alone that too only two days a week. A High Court judge hears more than 40 cases every day. Further, CIC has a staff of 23 against just 6 people with the PGC, Delhi.)

- The second problem is non-implementation of Sec. 20 of the RTI Act 2005, i.e., non-imposition of a penalty of Rs. 250/- each day till information is furnished. The job of the CIC is to decide—whether there was a delay and a reasonable cause for the delay. If these two elements exist, the Commissioners are under a statutory duty to impose a penalty. Non-imposition of penalties is going to create several problems, including manipulation in the number of appeals at the CIC. The Commission, therefore, should impose penalties to deter the erring government officers.
- The third problem relates to lack of knowledge about judicial processes among the Commissioners resulting in violation of principles of natural justice.

Functioning of the Right to Information Act 2005

During the first year of enforcement, there were 17 central government authorities having received at least 50 RTI requests and entertained all of them. Interestingly, DDA leads the group of such agencies, followed by Hindustan Shipyard (1203 requests), Ministry of Social Justice and Empowerment (152), Department of Tourism (120), and National Highways Authority of India (118). The Finance Ministry, which received 19.5 per cent of the total number of requests, is ahead of Railways and Urban Development by a wide margin, last two having received 10.9 per cent and 10.2 per cent, respectively. While the Finance Ministry rejected 36.65 per cent of the requests, the Home Ministry comes the next having turned down 28.65 per cent of the requests. Thus, the Finance Ministry, despite having received the maximum number of requests, had the dubious distinction of rejecting most of them on various grounds taking the shield of exemptions provided under the Act. (*Times of India* dated. 5.1.07)

However, RTI Act has created a historic opportunity. The hopes of the people from this legislation are very high. However, if CIC continues to

function in the present manner, hopes of the people would be shattered. Thus, it is suggested that:

1. Any case received at the CIC should be acknowledged and disposed off within 30 days.
2. All the existing pendency should be disposed off within the next two months.
3. Every appellant should be given an opportunity of being heard in a fair manner.
4. CIC should impose penalties as required under Sec 20 of the RTI Act 2005.

However, having disappointed with the working of the CIC, a group of NGOs, including Parivartan and the Delhi Right to Information Manch, have set up a Kiosk outside the CIC office from February 19, 2007 to record people's experiences and help them in getting redress their grievances. During the first week, 70 applicants were contacted. Out of them, only seven were satisfied with the CIC's functioning. Most of them reported that there is a long waiting period. Even after a favourable order, they do not get the desired information. One of the important issues they now plan to take up with the High Court is lack of transparency in CIC's proceedings. According to CIC records, most of the cases were disposed off without calling the applicant or giving people a chance to be heard. The CIC has imposed penalties only in 7-8 cases despite having heard over 2,000 cases. Further, it is felt that the scope of Section 8 of the Act or the piece of information exempted from being made public has been widened. Many applications were dismissed simply on the ground that the information asked for was of a 'fiduciary nature' or hurt the personal or institutional interests.

In a study of the implementation of Right to Information Act in its first two years, the National Campaign for People's Right to Information (NCPRI) found that low awareness among citizens continues to be the prime constraints. Besides, the Study identified lack of political and bureaucratic will, poor compliance by public authorities of Section 4 of the Act that entails voluntary disclosure, poor performance of Information Commissioners and lack of support from the government to the Information Commissions as reasons for half-hearted implementation.

Recommendations of Anna Hazare Panel

During the National Convention on one year of RTI, many panels have been constituted to look into various aspects of RTI Act. Shri Anna Hazare, with members like Sailesh Gandhi, Lt. Gen. S. Pattivarman, Anand Swarup, M. Sridhar, and S.C. Khuntia headed the panel on 'the challenges before the

RTI Act and the generation of awareness and making of planning'. The panel broadly recommended:

1. A postage stamp of Rs. 10 should be issued specially for the purpose of RTI Act. It should be available at all the post offices in the country. There should be one fee and one format for the Act.
2. We should utilise AIR and television for the popularisation of the Act, especially in villages.
3. The government should publish posters, pamphlets and advertisements in simple local languages about RTI. These advertisements should be available at *Gram Panchayat* offices as well as in banks.
4. The RTI Act and its use should be included in the syllabus of schools. This will make students aware of their rights. The Act should be popularised through meetings, street plays and other means of communication. The school teachers should specially be trained for this purpose.
5. Civil Society should be involved in a big way to implement and popularise the Act.
6. All decisions at the appellate level should be given in the written form.
7. Rules made by any organisations should be in conformity with the RTI Act 2005.
8. Commissions should decide a case within 90 days.
9. Stringent actions should be taken against the officials who do not entertain the complaints under RTI Act. If the concerning authority does not want to entertain the complaint, it should mention this in an office register with two witnesses.
10. There should be proper training of PIOs, APIOs and Appellate Authorities.
11. The names, addresses and telephone numbers of PIOs, APIOs and Appellate Authorities should be prominently displayed in every office.
12. Most of the departments did not put their websites.
13. Most of the states are not appointing Commissioners according to RTI Act. CIC should write to Chief Ministers of concerning states.

14. The Chief Information Commissioner and other Commissioners should be from law, science and social work backgrounds with experience.
15. Experienced people from background other than bureaucracy should be given chance.
16. The Commissioners should listen to both the parties before delivering the final verdict.
17. There should be no amendment to this RTI Act.

Source: *Transparency Review*, Vol. 1(5), Nov.-Dec. 2006, issued by Centre for Media Studies).

Appendix-A.13.1

Specimen of an Application for Seeking Information under the Right to Information Act, 2005

Date _____

The Assistant Public Information Officer,

Or

The Public Information Officer,

_____ Deptt.

Address:_____

Subject - Application for seeking information under the Right to Information Act, 2005

Sir,

Kindly supply the following information in respect of application submitted for.....
on (_____ date) (copy enclosed) under the Right to Information Act, 2005 :

- 1) Day-to-day Progress Report on the above mentioned Application. Kindly inform us if any other formalities is required to process this Application.
- 2) Name & designation of Officers who were expected to take necessary actions on the above referred application.
- 3) How much more time will your office take to complete the formalities?
- 4) What action do you propose against the officers who have shown negligence, if any?
- 5) Supply us the following details of such applications received after the above application was filed on _____ (date).
 - a) Name & addresses of Applicants.
 - b) Date of their applications received.
 - c) Date-wise action taken on each of such applications.
- 6) We would like to inspect the relevant files and, if needed, we would like to have the certified copies of the required pages. For this, kindly inform us about allotted date & time.
- 7) Please find Rs. 10/- in cash/Postal Order/draft as fee for seeking above information.

Yours faithfully

Name & Address of the Applicant

Encls. : As above

Appendix-A.13.2

(Though it is optional either to apply on an Application Form or on a plain paper for any information under the Right to Information Act, 2005, the following is a specimen form devised to facilitate the interaction under the Right to Information Act, 2005.)

Application for Seeking Information under the Right to Information Act, 2005**PART I:**

1. Name of applicant: _____
2. Date of Birth (optional): _____
3. Gender (optional): _____ Male/Female _____
4. Address for correspondence _____
5. Whether belonging to below poverty line (BPL) category: _____ No/Yes
(If yes, please attach proof of BPL)
6. Whether citizen of India: _____ Yes/No

PART II:

- (i) Specify the particulars of the information sought for.

- (ii) Whether the information sought is required to be supplied:

- | | |
|--|--------|
| (a) In Printed form | Yes/No |
| (b) In diskette or floppy | Yes/No |
| (c) Whether inspection of records also sought. | Yes/No |

- (iii) Whether prescribed application fee*

(Rs. 10 for Central Govt.) is paid? _____ Yes/No

If yes, please specify whether by cash/demand draft/Banker's cheque (drawn in favour of "Pay & Accounts Officer, _____", payable at _____(city).

Declaration of the Applicant:

The information given by me in this form is true and I am solely responsible for its accuracy.

Further, the information sought for is not exempted under the provisions of Section (8) of the Right to Information Act, 2005.

(Signature of the Applicant)

Place:

Date:

***Note:**

1. The above form has been devised to facilitate supply of information to the applicant. However, it is open to the applicant to submit the application on plain paper.
2. Attention of the applicant is drawn to section 7(3) of the RTI Act; whereunder additional payment of fees may be required.

Appendix–A.13.3*Contents of Appeal*

According to Appeal Procedure, First Appeal has to be filed with the concerned PIO, failing which the Second Appeal can be filed with the Central/State Information Commission. It should contain following information:

**Contents of Appeal to be provided by the Appellant as per Rule 3 of
Central Information Commission**

Sl. No.	Particulars Required	To Be Filled up by the Appellant
1.	Name & Address of the Appellant;	
2.	Name & Address of the Central Public Information Officer against the decision of whom the appeal is preferred;	
3.	Particulars of the order including number, if any, against which the appeal is preferred;	
4.	Brief facts leading to the appeal	
5.	If the appeal is preferred against deemed refusal, the particulars of the application, including number and date, name and address of the Central Public Information Officer to whom the application was made.	
6.	Prayer or relief sought	
7.	Grounds for the prayer or relief;	
8.	Verification by the application;	
9.	Any other information which the Commission may deem necessary for deciding the appeal.	

(In order to process the appeal quickly, the Commission has suggested that it may also be sent on E-Mail as an attachment to *mk.kaushik@nic.in* or *sc.bhatia@nic.in* though this is not mandatory for processing the case in the Commission.)

The Appeal should be accompanied by the self-attested copies of (1) Orders or documents against which Appeal is being preferred; (2) documents relied upon by the appellant and referred to in the Appeal; and (3) an index of the documents referred to in the Appeal.

At present, CIC expects five copies of the Second Appeal.

e-Governance

Key to Improve Governance

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

— Dr. A.P.J. Abdul Kalam, President of India

The evolution of use of Information Technology (IT) has made it possible to cover the country by computer network for public services. There are efforts to promote e-Governance for improving the administrative system and make it citizen friendly. With the passage of time, the adoption of electronic governance, or 'e-Governance' is expected to eliminate corruption to a large extent, and become an effective tool, *inter alia*, in efficient governance. Among them, Railways, Judiciary, Post Offices and Income Tax have already taken some of the steps; more steps are on the way. For example, online Railway Reservation (www.irctc.co.in) has become hassle-free. A print of the booking will serve as a ticket. It is, therefore, argued that e-governance is a better means:

- to make the government more responsive and accessible;
- to provide better government services;

- to enhance the role of government as a catalyst of economic growth; and
- for transferring benefits, improving health care and education.

Thus, e-Governance is expected to be an accepted methodology in:

- providing information speedily to all citizens;
- improving transparency;
- improving administrative efficiency; and
- improving delivery of various public services.

In other words, e-Governance is to provide Simple, Moral, Accountable, Responsive and Transparent, i.e., Smart Government. The resulting benefits are less corruption, transparency, paperless offices, greater convenience, revenue growth and/or cost effectiveness. Accordingly, e-Governance can be defined as “an electronic delivery of government services to citizens, business and other external consumers of such services in a reliable, timely and transparent manner, rather than computerisation of one department or the other.” Application of e-Governance projects saves money, time and effort, while infusing efficiency into the system faster than expected.

Minimum Agenda for an Effective e-Governance

Minimum agenda for each Ministry/Department for an effective e-Governance is expected to:

- (1) provide personal computers (PCs) with necessary software, including LAN, up to a certain level.
- (2) train all staff members who are expected to use computer through Learning.
- (3) have centres for decentralised training in computers.
- (4) start using the National Informatics Centre (NIC)'s Office Procedure Automation software to keep a record of all receipts, issue of letters, and movement of files.
- (5) use pay-roll accounting and other housekeeping software for day-to-day operations:
 - (a) Notices and Office Orders to be circulated by e-mail.
 - (b) Submission of applications and official Notes/noting to be done electronically.
 - (c) To set up on-line notice board to display orders, circulars etc.

- (6) use the web-enabled DAR & PG Grievance Redress Software.
- (7) have its own website specifically containing a section in which various forms to be used by citizens/customers are available in downloadable mode, completed and their on-line submission.
- (8) convert all Acts, Rules, Circulars into electronic form and, along with other published material of interest or relevance to the public, made them available on the internet and accessible from the Information and Facilitation Counters.
- (9) develop version of the websites simultaneously in national and regional languages.
- (10) make efforts to develop packages so as to begin electronic delivery of services to the public.
- (11) have an overall IT version of strategy for a specific period, within which it could dovetail specific action plans and targets (including the minimum agenda) to be implemented within one year.

e-Governance Standards

e-Governance Standards Recognising the critical role that standards play in the rapid growth of e-Governance, the Department of Information Technology (DIT), has constituted an 'Apex Body on Standards in DIT', in September 2005, among other things, to design the broad policy framework for setting as well as development of standards for the e-Governance initiatives in India. The following five areas have been identified under the National e-Governance Programme (NeGP) as the key priority areas:

1. Quality and Documentation.
2. Localisation and Language Technology Standards.
3. Meta Data and Data Standards for Application Domains.
4. Network and Information Security.
5. Technical Standards and E-Governance Architecture.

National Informatics Centre (NIC) has been entrusted with this major task of the formulation of standards. Realising the importance of e-Governance initiatives in improving core infrastructure and providing better services to citizens, NIC has been providing informatics support to various Departments by developing various e-projects in many sectors. To create a knowledge base of key initiatives and best practices, NIC has published a handbook, titled 'Good Governance Through ICT' (Nov. 2005), so that the IT specialists and administrators can provide benefits of IT to the common man.

Centralised Concept—Decentralised Implementation

The Government of India on June 14, 2006 unveiled the components of National e-Governance Plan (NeGP) covering 26 Mission Mode Projects (MMPs) and 8 support components to 'make all Government services accessible to the common man in his locality' over the next five years. Accordingly, the Department of Information Technology (DIT) is creating a common platform for the integrated delivery of services. This shared platform includes high-speed networks for Data Connectivity, Data Centres, Call Centres, Common Access Points all over the country (including the remotest areas) and laying down standards that enable and ensure integration. The DIT is setting up a professional Programme Management Unit (PMU) to undertake programme monitoring and strategic planning. There will be an optic fiber connectivity up to Block level.

Some of the Mission Mode Projects (MMPs) such as Land Records, Transport, Registration, MCA-21, Income Tax, Central Excise, and Common Services Centre are scheduled to be completed by June 2007. Since most of these services are relevant to all the citizens, particularly those living in rural areas, NeGP would provide convenient access at their doorstep, thereby providing single window integrated & enhanced access to government services.

National e-Governance Policy

The Finance Minister in his 2006-07 budget speech mentioned about the proposed National e-Governance Policy. As a result, the common man would not require to pay bribe to know the status of applications for ration cards, house sites, inclusion of names in voters' list, birth & death certificates, copies of land records and even transfers of teachers. The Government's intention is to bring a number of services online, including the filing of FIR. Twenty-five projects were to be launched in 2006-07. Common service centres were to be set up to cater to below poverty line people, who do not have access to the internet.

e-Governance Innovative

In a major thrust towards e-governance and job creation in rural areas, the Central Government in September 2006 decided to set up one lakh Common Services Centres (CSC) across the country with private-public partnership. These CSCs will provide e-governance services such as payment of electricity, telephone and water bills, and acquiring application forms. The Project is expected to create about four lakh jobs in the rural sector and is likely to be rolled out by March 2008.

Several State Governments have taken various innovative steps to promote e-governance in the delivery of public services. Some of the most significant initiatives are:

- Chief Minister's Information System (e.g. Andhra Pradesh, Madhya Pradesh and Rajasthan), which monitors a range of activities from developmental programmes to redress of public grievances.
- Andhra Pradesh Development Monitoring System (based on a multipurpose household survey) has a database—wiiX spatial as well as non-spatial parameters—of the entire population (7.5 million) of the state.
- APSWAN (Andhra Pradesh State Wide Area Network), a state-wide network for voice, data and video communication, which is the basic information highway for improving government-citizen and government-industry interface.
- The Secretariat Knowledge Information Management System (SKIMS) of Andhra Pradesh efficiently manages information in the Secretariat.
- The Disaster Management System in Gujarat maintains communication during natural disasters.
- Computerisation of treasuries capturing every transaction at all district and *taluk* (sub-district) treasuries in Karnataka.
- VIDYUTNET, India's first VSAT-based communication network supports real-time data applications for power generation and distribution in Gujarat.
- RD Net project (Information Kerala Mission) to connect all the 152 block offices in Kerala to transform local bodies into genuine institutions of self-governance.
- Office of Controller of Entrance Examinations in Kerala has been automated to allocate colleges to successful students.
- Connectivity Project has networked 3000 offices in Maharashtra.
- Vikas Darpan (mirror of development) of Rajasthan envisages GIS-based planning and decision support system.
- Online registration of property transactions (Andhra Pradesh, Kerala, Maharashtra, Rajasthan and Tamil Nadu).
- Registration of vehicles and issue of driving licenses (e.g. Andhra Pradesh, Delhi, Gujarat and Tamil Nadu),
- Land records (e.g. Andhra Pradesh and Tamil Nadu), and

- Single-window/one-stop delivery of public services (e.g. Andhra Pradesh, Kerala, Madhya Pradesh, Maharashtra and Tamil Nadu).

Besides, the TWINS project of the Government of Andhra Pradesh enables the citizens of the twin cities of Hyderabad and Secunderabad to access 18 services of six departments through a one-stop single window. The smart card based driving licence project of Gujarat has equipped all the Regional Transport Offices with state-of-the-art enrolment and issuance centres. The Bhubaneswar Development Authority of the Government of Orissa has set up kiosks at its offices that map the city using GIS. This has made life easier for citizens as they can check on existing schemes for housing, commercial and industrial projects without depending on middlemen.

In West Bengal, the West Bengal Electronics Industry Development Corporation has implemented a map-based GIS project in Maheshthala Municipality to act as a one-stop access for all information pertaining to the area. It has also designed a web and kiosk-based education information system to cater to the needs of the students regarding career counseling and educational institutes. In the context of lingual diversity, mention can be made of Tamil Internet Research Centre, which has been set up for funding projects promoting the use of Tamil on the Internet to maximise access to the citizens. Similarly, the Vernacular Interface Project of the Government of West Bengal aims to facilitate the use of computers in rural and semi-urban areas for access to information on tax payments, electricity, telephone bills etc.

Knowledge Centres across Rural India

Since connectivity is the key to empowerment in rural India, a consortium with representatives from the government, India Inc. and NGOs aims to create one lakh village Information & Communication Technology (ICT) centres across in the next two years, i.e., by 2008. Accordingly, the Third Convention of the National Alliance for Mission 2007 has set up an International Support Group to correct IT asymmetry that exists in the country. Private sector has already taken up the challenge of spreading IT in rural India. Companies such as Microsoft and Qualcomm (wireless service provider) are already involved in this project aimed at creating a whole new generation of rural entrepreneurs. The idea is to help them set up and manage kiosks for content and services in villages. Already 1,800 kiosks are operational as delivery points and learning centres for the rural community across the country. Microsoft along with International Development Research Centre (IDRC) has also announced a Rural Incubation Fund with a seed capital of \$200,000. It will enable the independent software vendors to create relevant content and application for use in villages.

Assessing e-Governance Projects*

The Skoch Consultancy Services (SCS), a leading market analysis and strategy consulting firm, has assessed a number of e-governance projects (21 in 2004 and 16 in 2005) on various parameters, including ease of use, speed of delivery, reduction in corruption, single window access, service level agreements, simplicity of procedures, etc.

These projects were carefully pre-qualified by a panel of experts, who then listed out various parameters on which they have been judged. Each of 21 projects selected have been judged on user responses. During the course of conducting Skoch Roundtables, several of these projects kept coming up as examples of success stories with potential of replication. Projects like Kalyan Dombivli Municipal Corporation (KDMC) are already slated for a replication all over Maharashtra and New Delhi.

The 2004 initial assessment was as follows:

- Spending on e-Governance up 23 per cent year on year.
- Uttarakhand tops the list among 21 best projects.
- 81 per cent citizens report reduction in corruption.
- 95 per cent find cost of e-governance affordable.
- 78 per cent favour speed of delivery.
- Alignment with user expectations is 75 per cent.

Integration of e-Governance Projects

Some of the e-Governance Projects like the CARD, LR-MIS and e-Panchayat in Andhra Pradesh were found to be extremely popular. Since various e-governance projects work in watertight compartments, the real benefit does not accrue to the citizens. Hence, integration of various e-Governance projects is necessary to offer uninterrupted services at citizen's doorstep. The survey recommends that e-governance projects should define deliverables for citizens. Further, the government needs to be at the doorstep of the citizen offering a basket of services since the usership of certain projects was found to be low. There is a need to increase spending yet keeping the service delivery affordable.

Benefits of e-Governance

Most citizens felt that application of e-Governance projects saves money, time and effort, while infusing efficiency into the system faster than expected. The speed of service delivery is excellent compared to the earlier

* Source: Skoch e-Governance Report Card 2004 & 2005.

system. Hence, several of these projects kept coming up as examples of success stories with potential of replication. Thus, these factors have ensured *Panchayats* and other bodies to install e-Governance projects. They have benefited them in monetary terms. Further, it recommended that e-Governance projects should be citizen friendly built with defined deliverables for citizens. Further, the government needs to be at the doorstep of the citizen offering a basket of services. Rural Employment Guarantee Plan and the Right to Information would be an immediate case in point.

- Even rural projects are reporting high ease: Most of the projects are working well with power backups and connectivity options. The emphasis, however, should remain on functionality.
- Penetration is the key: While initiatives like common Citizen Services Centres etc. can play a major role in increasing accessibility; there is a need of the domain ministries and local self-governance bodies getting computerised. There have to be services at the back end for the front-end common service centers to deliver.
- The spending on e-governance has to go up substantially: Two per cent of the Plan expenditure should be spent on IT. While some such guidelines already exist, it does not seem to be currently followed. This becomes increasingly important in the light of the country's move towards outcome based budgeting.
- Scaling and replication is a crying need: Most of the projects are only a minuscule number. Speed of implementation would be another area requiring improvement.

Public Feed Back on e-Governance

The idea that Information Technology (IT) can be an enabling force, not only for business and trade but also for government, has now been widely accepted. However, a cursory glance at the existing initiatives in India seems to suggest a mixed picture. With the exception of the Railways Reservation System, IT applications seem to have had no remarkable effect on the manner in which citizens' benefit from the services of the government. Against this backdrop, the efforts of some of the State Governments to harness Information Technology seem like a major initiative to deliver an improved administration.

In view of prevalent illiteracy, it is felt that the kiosk having the Touch Screen Information System would provide easy real-time access to common community information needed to avail a particular public service. This

system is already in operation at the selected Railway Stations/Reservation Offices for the convenience of railway passengers.

Besides, TV channels have now given way to hope. They interview and capture the outrage of citizens on various issues with stunning effect, something cold print could not achieve. This interactivity have now made possible a judicial revolution and a force for empowerment of a common man, suppressed for decades by a government monopoly. In fact, TV viewers have not imposed anything on the judiciary, they have persuaded them to listen to ordinary people. Such viewer activism can be called as 'justice of the people, by the people, and for the people'. However, there are still hundreds of millions of people having no access to such tools. But we hope, they will soon be empowered with such a tool.

The message from citizens:

"e-Governance can effectively combat corruption."

Citizen Report Cards*

A Strategic Tool to Improve Service Delivery

In the context of urban growth and poor service delivery, a small group of citizens initiated the process of preparing Citizen Report Cards (CRC) in 1993. The group gathered systematic feedback on service delivery from a cross section of citizens through a stratified random sample survey. They presented it as the 'voice' of residents to service agencies and city government. The findings reflected abysmal service standards; proportions of users, who were clearly satisfied with many services, were in single digit percentages. The report was sent to concerned agencies, which had different responses to the feedback. Three agencies sought inputs to improve services.

Effects of CRC

Development agencies across India took notice of this process and its potential for impact. The interest generated by the first CRC led to the creation of Public Affairs Centre (now Public Affairs Foundation—PAF) in 1994. PAF went on to replicate this process in other cities while strengthening the civil society network in Bangalore. By the time of the second CRC in 1999, the CRC process evolved from information gathering and dissemination, to one that actively engaged service providers. The second CRC indicated improvements in services. CRC findings were shared in separate presentations with the heads of four public agencies. PAF used the findings to facilitate a series of public discussions involving city agencies about measures to improve service delivery. This was followed with several initiatives by city agencies to engage civil society to improve service delivery. The third CRC indicates that satisfaction with services has

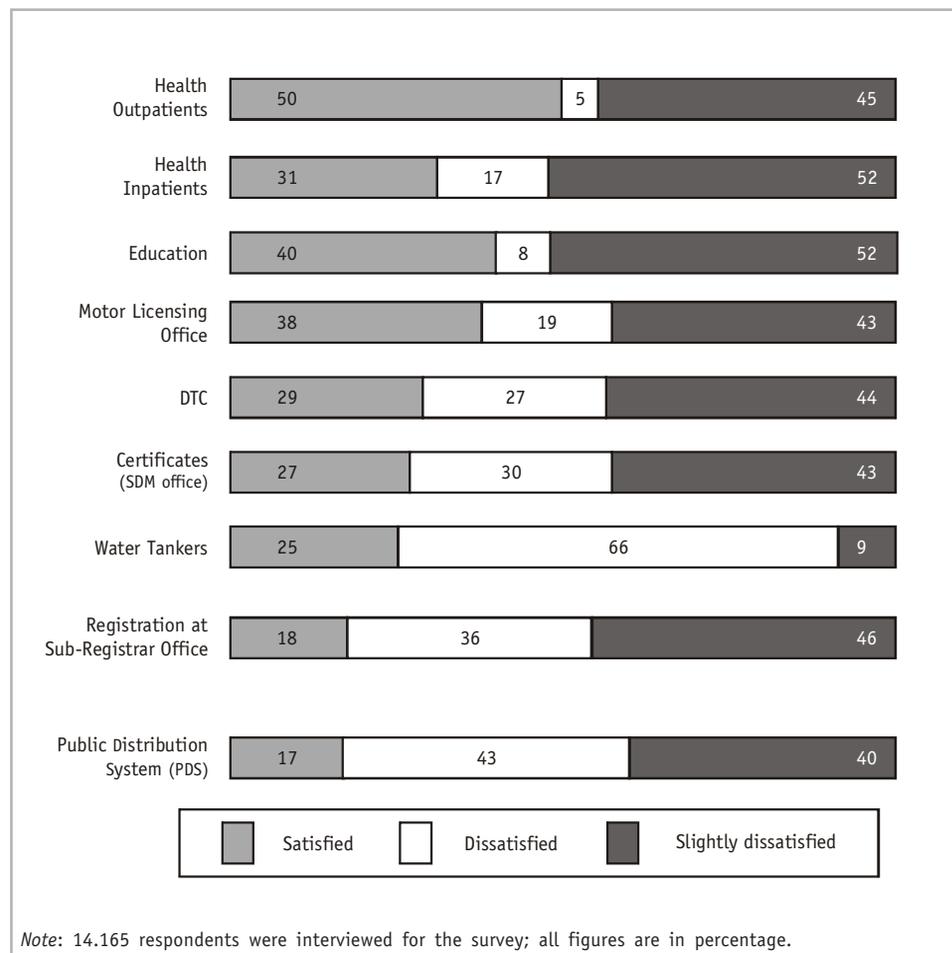
* Suresh Balakrishnan, Public Affairs Foundation, Bangalore.

improved from the single digits of 1994 to over 70 per cent for most agencies in 2003.¹

The experience with this decade long process has contributed to significant changes in civil society's engagement with public agencies in Bangalore, and in the manner by which citizens participate to improve public service delivery. The learning from this experience has been replicated and adapted in other sectors in India and in several countries across the world.

The CRC was built on a foundation of 'voice' as articulated by citizens through feedback surveys. While 'voice' alone is inadequate to improve services, CRCs provided something that was hitherto absent—the basis for systematic civic engagement by city governments and civil society, as well

1 : At the initiative of the Delhi Government, the Public Affairs Foundation (PAF), Bangalore has released on September 4, 2006 the first Social Audit Report of Delhi based on interviews of 14,165 people to gauge how nine public services were performing. It pointed out that the Delhi's grievance redress system leaves a lot to be desired. Since very few users lodged formal complaints, it implies low faith in this mechanism. It concludes that there is slow progress in pro-poor services and increasing awareness about Citizens' Charters. Though each Department has it, the knowledge has to percolate down to the people. It is the government's way of telling people about service standards, what they should expect. The government needs to find out why with the same funds, the civil servants are not giving the same standards service to the people, as is being provided by the other States.



as benchmarks for monitoring performance. The public character of this process moved the focus of dialogue to specific issues and improvements, along with an acceptance of public accountability. It must, therefore, be noted that improvements that have taken place in the city are the result of reactive and proactive initiatives of city government and service agencies. Over these years, other reform initiatives in Bangalore have built on this premise, and radically altered the relationship between the city and its residents.

Challenges

The key challenges for PAF included: drawing attention to the issue of quality of service, establishing space and legitimacy for civil society without a formal mandate, identifying points of leverage in the political and administrative system, finding a model to engage elected representatives, strengthening civil society, convincing stakeholders of the reliability of survey methodology and taking cognisance of some startling CRC revelations.

Experiences

PAF's experience provides important lessons for civil society and public service providers who wish to use 'voice' as the starting point for improving service delivery. While some lessons are based on specific strengths and limitations of PAF, they provide a framework for other groups to consider. It is essential for civil society to realize that information generated through CRCs needs to be articulated, directed and followed up for it to become an effective means by which citizens engage with government. Findings are not to be seen as research that ends in a report. Sufficient time needs to be allocated for the entire process. As for local governments, these lessons suggest how agencies can respond to citizen initiatives, as well as the need to self-initiate reform even when public demand has not gathered strength.

The experience in Bangalore highlights a variety of enabling conditions for 'voice' to make a substantive impact. The space provided by the state for engagement, the identity it provides for civil society institutions, the extent to which prevailing political agendas allow particular groups to operate and the power of the client lobby have an important role to play.

This experience offers insights on how civil society articulated 'voice' and engaged local government, and on how the state proactively responded to make best use of such initiatives. This is not meant to be a prescriptive statement of actions, but seeks to inspire civil society and local government to work together and to adapt the learning from Bangalore to facilitate innovative improvements in service delivery.

16

Integrity Pact

Governance in Public Procurement and Contracting

It is in the public procurement that most of the 'grand corruption' occurs with much of the damage visibly inflicted upon the development process in poorer countries and countries in transition. 'Islands of integrity' is a process in which voluntary agreements are made, involving bidders and the government, to restrict opportunities for corruption in a particular project. Keeping it in view, the Integrity Pact (IP) was designed and launched by Transparency International in the 1990s to safeguard public procurement from corruption. It can be used by any procurement body in its procurement and contracting.

Purpose

The goal of the Integrity pact is to reduce any (and almost ensure no) chances of corrupt practices during procurement through a binding agreement between the agency and bidders for specific contracts. It is intended to accomplish two primary objectives:

- To enable companies to abstain from bribing by providing assurances to them that (i) their competitors will also refrain from bribing, and (ii) the government procurement, privatisation or licensing agencies will undertake to prevent corruption, including extortion, by their officials and to follow transparent procedures.
- To enable governments to reduce the high cost and the distortionary impact of corruption on public procurement, privatisation or licensing.

Thus, the IP is a specific tool used to build transparency in public procurement, bidding or licensing process by both public institutions and

private agencies. The establishment of such a fair and transparent basis for awarding contracts not only ensures efficiency but also helps in building public trust in government and the private sector.

Key Elements

- A pact (contract) among a government office inviting public tenders for a supply, construction, consultancy or other services, or for the sale of assets, or for a license or concession (the Authority, i.e., the 'principal') and those companies submitting a tender for this specific activity (the 'bidders').
- An undertaking by the principal that its officials will not demand or accept any bribes, gifts, etc., with appropriate disciplinary or criminal sanctions in case of violation.
- A statement by each bidder that it has not paid, and will not pay, any bribes.
- An undertaking by each bidder to disclose all payments made in connection with the contract in question to anybody (including agents and other middlemen as well as family members, etc., of officials); the disclosure would be made either at the time of tender submission or upon demand of the principal, especially when a suspicion of a violation by that bidder emerges.
- The explicit acceptance by each bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in force for the winning bidder until the contract has been fully executed.
- Undertakings on behalf of a bidding company will be made 'in the name and on behalf of the company's Chief Executive Officer.'
- A pre-announced set of sanctions for any violation by a bidder of its commitments or undertakings, including (some or all):
 - denial or loss of contract;
 - forfeiture of the bid security and performance bond;
 - liability for damages to the principal and the competing bidders, and
 - debarment of the violator by the principal for an appropriate period of time.

Bidders are also advised to have a company Code of Conduct (clearly rejecting the use of bribes and other unethical behaviour) and a

Compliance Programme for the implementation of the Code of Conduct throughout the company.

Penalties for Failure to Implement Integrity Pact (IP)

Officials are subject to penal action and bidders have to face cancellation of contract, forfeiture of bond, liquidated damages and blacklisting. Action will, however, not require criminal conviction but be based on 'no-contest' after the evidence is made available or there can be no material doubts. Disputes in IP implementation are resolved by arbitration. Independent External Monitoring (IEM) is a key aspect of IP implementation. Public access to all relevant information is a necessity. It calls for a forum in which representatives of civil society can discuss the contract itself. This concept of IEM includes the existence of private sector inspector which will be delegated with the rights of civil society to monitor the contract; suggested bodies are government office with non-involvement, TI India or a credible NGO. The monitoring and supervising procedures are specified and a certificate of corruption-free may be issued at the conclusion of the contract.

Salient Features of the Integrity Pact*

1. In the bidding Stage:

- Upon the announcement of a bid offer, the IP is explained to bidders in a 'Letter of Special Note for Bidding.'
- Registration of bid submission.
 - o Only bidders that submit the "bidders' Oath to Fulfill the IP", which contains no-bribery commitment, are qualified to register their bid submission.
 - o The concerned government official submits the "Principal's Oath to Fulfill the IP."
 - o Bidders are encouraged to institute a "Company Code of Conduct", and incentive on qualification evaluation is provided.
 - o Information on the bidding is publicised.

2. The Contract Concluding and Execution Stage:

- When signing a contract, both parties also sign the IP as a "special condition for contract," containing the same contents as the pre-signed Oath.

*: Model Integrity Pact is appended at the end.

- Bidders shall not offer bribe, gifts or entertainment to any related government official to influence a bid.
- The Principal, including the concerned official, shall not take bribes.
- In case of violation of the IP, bidders shall be subject to disqualification from submitting bids, or termination of the contract.
- No punitive actions shall be taken against anyone who reports inside corruption.
- Bidders are encouraged to institute a “Company Code of Conduct” and a Compliance Programme for the implementation of the Code of Conduct.
- Bidders cooperate with the IP Independent External Monitor in monitoring activities.
- Operation of IP Ombudsmen System.
- Public hearings in stages.
- Protection and rewarding of anyone reporting inside corruption.
- Organisation of the IP Operational Committee.

3. The Operation of the IP and its Intended Targets:

- Procedures of the IP Implementation:
 - The Company and NGOs shall jointly implement the IP and the Independent External Monitor will monitor the process. Since trust between the companies and the government is important for the successful implementation of the IP, important issues regarding the IP are decided by the IP Operational Committee
- Major Tasks of the IP Operational Committee:
 - choice of projects for monitoring the IP;
 - reporting, hearing, and inspecting the IP projects;
 - education and public relations on the IP; and
 - other tasks necessary for the implementation of IP.

4. Detailed Programs about the IP:

- Bidder’s Submission of the Oath to Fulfill the IP

- When there is an official notice about a bid for construction, technical services, or procurement, bidders are informed about the IP.
- When submitting a bid, the representatives of the bidders sign the 'Oath to Fulfill the IP', as a condition for qualifying to bid.
- At the time of the contract signing, the winning bidder and Principal sign the IP containing the same terms in the aforesaid Oath as a 'Special Condition of the Contract.'

Major Contents of the Company's Oath to Fulfill the IP

Executives and employees of Bidders (including sub-contractors and consortium partners)

- shall not engage in bid rigging, illegal price-fixing or any other fraudulent behaviours by bestowing favours on any particular persons;
- shall not offer any bribe, gifts or entertainment in the processes of bidding, concluding and executing the contract to any of the concerned government official;
- shall, in the case of any findings of violation of the IP, accept the restrictions to the qualification for bidding, termination of contract or other punitive measures;
- shall cooperate with the IP Ombudsman (IEM) in monitoring activities; and
- shall prohibit any forms of bribery and bid rigging, and endeavour to institute a Company Code of Conduct that mandates the termination of any violator of the IP and a company regulation that anyone reporting inside corruption shall not be subject to any retaliatory acts.

Encouraging Company's Code of Conduct and Provision of Incentive on Qualification Evaluation

When submitting a bid, bidders are encouraged to institute the Company Code of Conduct and a company regulation to protect anyone reporting inside corruption. Among the Bidders that submit the Company Code of Conduct, the company with outstanding Compliance Programs for the Code of Conduct will be given positive points to be considered in the evaluation of its qualifications.

Company's Code of Conduct

The Company shall adopt a Code of Conduct on banning bribery and implementing compliance Programs to put the Code into practice. The Code of Conduct should include, *inter alia*, the following:

- clear definitions and prohibition of all forms of bribery and bid rigging;
- rules on offering of gifts, entertainment, travel fees, and money contributions;
- education on the Code of Conduct throughout the company; Internal and external audits and inspections, and sanctions against violators (including dismissal);
- provisions against any retaliatory acts upon anyone reporting inside corruption; and
- to provide an incentive for Bidders to submit the Company Code of Conduct, it is suggested that the Government should adopt an amendment to the standards for qualification evaluation.

Principal's Oath to Fulfill the IP

When a Bidder submits the Oath to Fulfill the IP, the chief of Principal reciprocates by tendering to the Bidder the "Oath to Fulfill the IP" signed by both himself or herself and a concerned government official.

Major Contents of the Principal's Oath to Fulfill the IP

The official in charge of the concerned bidding, concluding or execution of contract and his/her senior:

- shall not demand or accept bribe, gifts, entertainment or other amenities from Bidders;
- shall cooperate with the IP Independent External Monitor in monitoring activities;
- shall not engage in any retaliatory acts upon anyone reporting inside corruption; and,
- in case any violation of the IP is disclosed, shall accept punitive sanctions.

Limitation to the Qualification to Bid for Violations of the IP

The contract may also contain a "Special Condition of Contract" that requires those bidders who have rigged a bid, or bribed a concerned government official in the process of bidding, concluding or executing a

contract, to be deprived of their qualification to submit bids placed by the company for up to a specified period.

General Standards on the Limitation of Qualification to bid Major Contents of the Principal's Oath to fulfill the IP:

- Disqualification from bidding for a specified period: Bidders that have been favoured in a bid, won a bid, or had faulty construction approved by bribery.
- Disqualification from bidding for a specified period: Bidders that have offered bribes for the purpose of winning favour in the bidding, or of faulty execution of the contract.
- Disqualification from bidding for a specified period: Bidders that have offered money to public officials in relation to a bid, or concluding or execution of a contract, even though there are no evidence of winning favour in the bidding or faulty execution of the contract.

Termination of Contract for Violation of the IP

If it has been established that bidders have bribed a government official in relation to a bid, or concluding or execution of a contract, part or all of the contract shall be cancelled or terminated with the provision that, if construction is under way at the time of disclosure, the Principal shall make the decision in due consideration of the scope, period, and progress of the concerned construction.

Three-stage Public Hearing on the Contract Process

- I Stage—the project plan,
- II Stage—procedures of selecting a contractor, and
- III Stage—inspection results on the execution of the contract.

The Public Hearings by the IP Ombudsmen: The IP Independent External Monitor draft specific plans for, and manage, the public hearing. Principal and bidders should willingly cooperate in explaining the procedures and publicising information regarding the public hearing.

Publicising Detailed Information on the Bidding Procedure in the OPEN (Online Procedures Enhancement for Civil Applications) System on the Internet. To make searches for major projects easier, measures are to be taken to group the projects in various categories.

Operation of Independent External Monitor

- Tasks and Authority
 - ombudsmen review, inspect and monitor all documents related

- with the project proposal, bidding, contract, construction inspection and through the completion of construction;
- organise public hearings by stages on the plan, bid, and execution of contracts for major projects;
- demand corrective measures or audits on issues affected by unjust practices; and
- participate in the IP Operational Committee.
- **Composition and Qualification:** A team of persons, with one as Chief Independent External Monitor, with respectability, integrity and expertise in the relevant discipline, and are recommended by NGOs like TI India.
- **Position and Term of Office:** Serving in the capacity of a private citizen to act independently. However, the Independent External Monitor should not hold any concurrent job. He/she may make public announcements under consultation with IP Operational Committee on their activities, but should not publicise or disclose on their own accord, any information or documents obtained during their work as IP Ombudsmen for personal purpose or gain.
- **Regulations for Independent External Monitor Operation** shall be adopted to assert the authority of Ombudsmen and the obligation of all government and other concerned officials to cooperate with them.

Protection and Rewarding of those reporting Inside Corruption

To uproot and prevent the occurrence of corrupt practices, it is important to encourage disclosing such practices. Any officials who make such disclosures should be protected from retaliatory acts, such as harassment or disadvantage in promotion considerations. To encourage such citizens to report such practices, there should be a 'Regulation on Rewards for the Reporting of Corrupt Practices.'

TI India's Efforts

TI India is pursuing the adoption of Integrity Pacts in various contracts and deals by various Government Departments and PSUs. Consequent to TI India's various presentations on integrity Pact, Second Administrative Reforms Commission has recommended its adoption in its Fourth Report on *Ethics in Governance*. Besides, provisions have been made in the Defence Procurement Procedure Manual 2006 for adoption of 'Integrity Pact' in all defence contracts and procurements of more than Rs. 100 crores with IEMs to monitor IP's implementation.

However, ONGC is the first PSU to have signed a MoU with TI India in the presence of the Central Vigilance Commissioner (CVC) on April 17, 2006. Its details can be had from their website: www.tenders.ongc.co.in. Initial benefits achieved by ONGC were (i) external interventions in matters of contracts and tenders were practically eliminated; (ii) improved sense of ethics in ONGC and among the bidders; (iii) no reference from any bidder or contractor for review by IEMs received so far. Further, MoUs have already been signed by the Rashtriya Ispat Nigam Ltd. (Visakhapatnam), Hindustan Petroleum Corporation Ltd., Gas Authority of India Ltd. Coal India and ten PSUs under the Ministry of Steel. Many more such MoUs are expected to be signed with other PSUs shortly.

Integrity Pact in Pakistan

The 'Integrity Pact' was implemented in Pakistan in 2001-2002 at the Karachi Water & Sewerage Board, on 100 MGD, K-III Water Supply Project. In the Design & Supervision Consultancy Contract, the IP achieved a net saving of US \$ 3 million out of an approved fee of US \$4 million. This performance enabled TI Pakistan to convince the Government of Pakistan to make new Public Procurement Rules. In 2002, while preparing Pakistan National Anti-corruption Strategy, TI Pakistan were able to introduce the Integrity Pact in all Public Tenders of value above Rs 10 million, and prepared Transparent Public Procurement Rules, most of them includes IP provisions. The IP was thus reduced to a single page.

After National Anti-corruption Strategy was declared in October 2002, TI Pakistan worked with National Accountability Bureau (NAB) and Ministry of Finance for government notification of Public Procurement Rules 2004 for all public procurement in Federal Government by Public Procurement Authority (PPRA) the issuance. The Rules are available on www.ppra.org.pk, www.transparency.org.pk.

After the notification of Public Procurement Rules 2004, TI Pakistan signed MoU with many government agencies, and Pakistan Steel was one of them. TI Pakistan then prepared 'Procurement Manual' for Pakistan Steel, which comprised of Standard Bidding Documents, made by Pakistan Engineering Council and the World Bank, and were in use since last 25-10 years, but the relevant provisions of the Procedures were amended to comply with mandatory rules of PPRA. The Procurement Manual is available on the websites of TI Pakistan, and also on the Pakistan Steel.

TI Pakistan has since been working for adoption of Public Procurement Rules 2004 by the four Provinces also. Sindh Province has adopted the Rules in Nov. 2006, and Balochistan Province is in the process of adoption.

Appendix-A.16.1*Integrity Pact*

Between

----- hereinafter referred to as "The Principal"

And

.....hereinafter referred to as "The Bidder/Contract"

Preamble

The Principal intends to award, under laid down organisational procedures, contract/s for ----- . The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder/s and Contractor/s.

In order to achieve these goals, the Principal cooperates with the renowned international Non-Governmental Organisation "Transparency International" (TI). Following TI's national and international experience, the Principal will appoint an External Independent Monitor who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
 1. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for him/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
 2. The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder, confidential/additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
 3. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

Section 2 – Commitments of the Bidder/Contractor

- (1) The Bidder/Contractor commits itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

1. The Bidder/Contractor will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 2. The Bidder/Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.
 3. The Bidder/Contractor will not commit any offence under the relevant Anti-corruption Laws of India; further the Bidder/Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 4. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from Tender Process and Exclusion from Future Contracts

If the Bidder, before contract award, has committed a transgression through a violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.

1. If the Bidder/Contractor has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is entitled also to exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressions within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
2. The Bidder accepts and undertakes to respect and uphold the Principal's absolute right to resort to and impose such exclusion and further accepts

and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

3. If the Bidder/Contractor can prove that he has restored/recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.
4. A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

Section 4 – Compensation for Damages

1. If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover from the Bidder liquidated damages equivalent to 3 per cent of the value of the offer or the amount equivalent to Earnest Money Deposit/Bid Security, whichever is higher.
2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5 per cent of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.
3. The bidder agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder/Contractor can prove and establish that the exclusion of the Bidder from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount or the liquidated damages, the Bidder/Contractor shall compensate the Principal only to the extent of the damage in the amount proved.

Section 5 – Previous Transgression

1. The Bidder declares that no previous transgression occurred in the last three years with any other Company in any country conforming to the TI approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 – Equal Treatment of All Bidders/Contractor/Subcontractors

1. The Bidder/Contractor undertakes to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

2. The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Subcontractors.
3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section 7 – Criminal Charges Against Violating Bidders/
Contractors/Subcontractors**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

**Section 8 – External Independent Monitor/Monitors
(———— in number depending on the size of the contract)
(to be decided by the Chairperson of the Principal)**

1. The Principal appoints competent and credible External Independent Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairperson of the Board of the Principal.
3. The Contractor accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor with confidentiality.
4. The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
5. As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or heal the violation, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
6. The Monitor will submit a written report to the Chairperson of the Board of the Principal within 8 to 10 weeks from the date of reference or intimation

to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.

7. Monitor shall be entitled to compensation on the same terms as being extended to/provided to Outside Expert Committee members/Chairman as prevailing with Principal.
8. If the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
9. The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract, and for all other Bidders six months after the contract has been awarded.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by Chairperson of the Principal.

Section 10 – Other Provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e., -----
-----.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the Contractor is a partnership or a consortium, this agreement must be, signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

For the Principal

For the Bidder/Contractor

Place.....

Witness 1 :

Date.....

Witness 2 :

Improving Public Service Delivery*

Initiatives of Government of India

Over the years, India has evolved into a mature and responsive democracy attuned to the needs and aspirations of its citizens. The Government of India at the time of independence pledged to serve its people and honour its commitment towards socio-economic prosperity by establishing procedures and systems to serve the citizens effectively. With industrialisation, increased economic activity and higher literacy rates, there is increasing awareness among citizens on how the government services need to evolve. The government now has to accord a central place to the needs of the citizens and their aspirations. Even in a near open economy, it cannot leave the issues of citizens' welfare and upliftment of weaker sections to market dynamics alone. Though after economic liberalisation, since 1991-92, private players are taking up important roles in service delivery, common people of the country are still looking towards government for delivery of essential services and for fulfillment of their aspirations.

The government therefore, needs to continuously revisit facilities and priorities governing and impacting service quality, not only to realign them with emerging expectations but also to come up with measures that proactively anticipate the aspirations of the citizens. The Government of India has been taking concrete steps to rethink traditional paradigms and evolve its procedures, systems and facilities with a citizen's perspective. From the earlier defining factor of 'administration', the focus has now been shifted to 'good governance' and the continuous endeavour of the government is to effectively capture citizen's expectations and partner with them to come up with solutions to critical issues to establish a citizen-friendly government in the country.

* Shyamalima Banerjee, Director, Deptt. of Adm. Reforms & Public Grievances, Govt. of India.

Government's Initiatives

Citizens' Charters

One such initiative was taken in the Chief Ministers' Conference held under the Chairmanship of Prime Minister in 1997 mandating implementation of Citizens' Charter in all departments of Government of India and state governments for an effective and responsive governance in the country.

Through the charters, government departments would publicly declare their obligation of service delivery to citizens as also spell out clearly the grievance redress mechanism if there is a failure to meet the commitment by a government department and would associate a time frame for provision of service delivery and resolution for the issues applicable. These charters are to be developed by involving the civil society, particularly the beneficiaries of the government departments and after examining the procedures in the light of citizens' and the rational expectations around the services. A large number of Government of India Ministries and State Government Departments have come forward with their charters and the citizen focus has been gaining prominence. Government now, is increasingly being recast in a different mould—from the traditional regulatory role to a responsive and citizen friendly service provider, assigning responsibilities to civil society to be partners of development for improving public service delivery.

The Department of Administrative Reforms and Public Grievances (DARPG) in the Ministry of Personnel, Public Grievances and Pensions being the nodal agency to design and take up all citizen-centric initiatives of the government, have been endeavouring continuously to assist Government of India Ministries and State Government Departments towards formulation of citizen's charters by issuing policy guidelines and arranging awareness campaign apart from organising regular regional conferences involving Government of India and state government organisations and civil society representatives and NGOs to assist government departments to formulate and implement citizen's charters effectively. While a high level committee under the Secretary, Ministry of Personnel, Public Grievances and Pensions scrutinises every citizen's charter formulated by Ministries of Government of India, a Core Group of Secretaries under the Cabinet Secretary examines the grievance redress mechanism of each Ministry of Government of India to find solutions to critical issues to improve public service delivery system in the country. Thus, Citizens' Charter is a pathbreaking move to rejuvenate the efforts of the government towards a citizen-centric governance in the country.

The Information and Facilitation Counters (IFCs)

These have been set up by most of the Union Ministries and Departments to help citizens to get information pertaining to a Ministry from one place.

Public Grievance & Monitoring System

To effectively capture citizen's expectations and partner with them to come up with strategic solutions to effectively fulfill the aspirations of citizens, the DARPG with technical support from National Informatics Centre (NIC) has developed a software i.e., Public Grievance Redress & Monitoring System (PGRAMS) for effective redress of citizen's grievances. It has the facility to lodge a grievance 'online' from any geographical location any time and enables the citizen to 'track' the status of his grievance 'online' being followed up with departments concerned and monitored by DARPG. The mechanism has been successful to establish confidence in the system and the citizens, particularly Indians living abroad find the system 'amazing' and 'unbelievable' that takes care of the problems being faced by their elderly parents living alone in India. Letters and e-mails from Indians virtually from all parts of the world only justify the effectiveness of the system that highlights the overarching objective of the government for improving quality of public service delivery in the country.

e-governance

A more recent development is the National e-governance plan that seeks to accelerate the deployment of all e-governance initiatives in the country to create a citizen and business friendly environment in the country. A large number of e-governance initiatives taken up by the Government of India Ministries and Departments and also by some progressive states have made governance system sufficiently transparent and accountable for providing quality services to citizens.

The Finance Minister's directives for 'outcome budgets' made it mandatory for all Ministries of Government of India to make their expenditure statements available on public domain, open to public scrutiny. The citizens are now in a position to analyse the cost and expenditure towards implementation of a project and judge performance of a government department.

Right to Information (RTI) Act 2005

It is landmark initiative that entitles a citizen to request access to all information which can be provided under the law.

While each one of these is significant in itself, a collective synergy among varied initiatives were needed to ensure that real benefits percolate

to those who need them the most. The DARPG have undertaken several studies after introduction of citizen's charter in 1997 in government departments to assess the impact of these initiatives in public service delivery. In some of the more important studies, NGOs, professional agencies, consultants and civil society representatives were involved to identify issues preventing the government departments to achieve the desired benefits. The results of all these studies indicated that these initiatives were not sufficiently reflected in the ultimate improvement in service delivery.

There were a few feedbacks that despite all these endeavours of the government, many of the citizens continue to perceive and experience government agencies as inaccessible, inscrutable, unsympathetic and unfair. It was clear that unless there is a mechanism to assess the impact of all these initiatives on public service delivery with respect to certain quality standard is established, much of these initiatives would lose steam and would fail to deliver the desired results. Thus, a kind of paradigm shift for ensuring effective implementation of various initiatives for guarding against poor delivery on the ground has been the urgent need. Further a reliable mechanism is needed to ensure minimum standard of every service delivery across sectors and progressively match them with citizen's expectations.

Assessment Improvement Framework

The DARPG, on the basis of past experiences and after examining the results of all these studies, has developed a model with technical assistance from Tata Consultancy Services Ltd. The model has an assessment-improvement framework for benchmarking excellence in public service delivery ('Sevottam' i.e., *Seva Uttam*). The framework embodies a set of criteria to guide organisations in assessing and improving implementation of citizen's charters, public grievance redress mechanism and to enhance service delivery capability. The process of evaluation itself engenders some basic level improvement and creates internal capability in the organisation to understand how effectiveness can be enhanced. *Sevottam* is a very well thought out mechanism that takes into account the practical realities of public service delivery in a country as diverse as ours. It has enough flexibility to account for sectoral and regional variations and offers a systematic way to identify weaknesses in specific areas and rectify them through action focused on citizen-centric outcomes.

The framework takes note of best in class practices across the world and yet remain grounded in Indian realities. While developing the model, we looked at working conditions in India as well as at International best practices like the UK Charter Mark, the US Business Excellence Model and

the Malcolm Baldrige Quality Awards, European Foundation for Quality Management Framework as well as the ISO: 9000 series of standards. In fact we have taken into account Capability Maturity Models as also Six-Sigma improvement techniques and interwoven them into the framework to create a mechanism that is truly world class and yet simple enough to be taken up by a wide variety of government organisations. We have developed all these artifacts in consultation with government departments, civil society representatives and NGOs at each step of the process through national level workshops and focused discussions.

Public Service Quality Standard

Based on the model, the Bureau of Indian Standard (BIS) has developed a requirement standard on systems for managing the quality of public service delivery. The standard was published in December 2005 and this gives India its own Public Service Quality Standard 'ISO: 15700-2005'. The standard, first of its kind in the world, positions India as a vanguard nation in formalising and publishing a public service delivery standard for government departments.

The DARPG is now working in partnership with other government and independent bodies including Tata Consultancy Services (TCS), Bureau of Indian Standard (BIS), Quality Council of India (QCI) and individual Government of India Departments to implement *Sevottam* in Government of India at the required pace and momentum. Necessary support and handholding is provided to ten departments of Government of India having large public interface by a 'dedicated team' set up in DAR&PG comprising representatives from TCS, BIS, QCI and DARPG to complete implementation of *Sevottam* within a period of two years. All Ministries will be required to furnish information in their annual reports in the prescribed Performa prepared under *Sevottam* to indicate level of their preparedness indicating improvement in public service delivery to achieve certification under *Sevottam*. The *Sevottam* framework will institutionalise assessment improvement exercises undertaken for service delivery departments and their results will be available in public domain to ensure that a transparent and accountable mechanism of service delivery improvement is visible.

Through this framework, it is possible to foster a culture of continuous improvement and bring about large-scale changes even in organisations that have been operating in traditional environments. At the heart of this whole initiative lies the fact that service provider organisations should have confidence to publicly acknowledge the quality of services delivered and engage in dialogue with civil society or their representative groups to align their actions with citizens' expectations. Implementing *Sevottam* is no doubt a challenging task and yet the challenge is only as big as the implementing agency is capable of taking on.

Part – IV

Some Exemplary Initiatives to Improve Governance

Successful Governance Initiatives

There have been several success stories in governance projects such as Andhra Pradesh's e-Seva or Maharashtra's KDMC computerisation projects that can be looked at and replicated today. Their replication will make it easier to integrate the framework, resulting in a more efficient government body. Further, citizen's expectations must be taken into account and acted upon. In this study, we analyse some successful models.

Bhagidari: 'Citizen-Government Partnership'

Delhi, being the national capital, provides the ideal base for initiating governance innovations aimed at transparency, participatory practises and collaborative decision-making. Under the conventional administration, there is no direct role of citizens in formulating, implementing and evaluating the policies meant for them. So, under the leadership of Chief Minister Mrs. Sheila Dikshit brought out a paradigm shift in governance by launching the 'Bhagidari' (i.e., Citizen-Government Partnership) in 2000 to involve all the stakeholders as 'partners'. Under the scheme, a democratic framework has been developed wherein citizens' groups, such as Resident Welfare Associations, Rural Groups, Market & Traders Associations, Industrial Associations and NGOs can interact and work as partners with government functionaries for resolution of simple, day-to-day civic issues. Some of the key areas identified are:

- Community participation in water management.
- Rainwater Harvesting by Residents.
- Spreading awareness about water and energy conservation.
- Augmentation of infrastructure in distribution of electricity.
- Facilitating collection of user charges and House Tax Revenues.
- Maintenance of community parks, halls and public places.

- Segregation of waste and management through community participation.
- Greening of Delhi.
- Controlling air pollution and other environmental hazards.
- Community involvement in crime prevention and detection.
- Protection of senior citizens.
- Women's empowerment.
- Participation of children and youth in environment awareness campaigns.
- Community participation in school management and improvement.
- Citizens' Right to Information.

One vital aspect of the process is that it can be applied in almost every large system environment with suitable modifications. The experiences gained during 'Bhagidari' were also shared with the key players of Bangalore Agenda Task Force, particularly in the areas of house-to-house collection of solid waste, city infrastructure development, sustainable water distribution and management. The Central Department of Administrative Reforms has forwarded this Scheme to all State governments for adaptation in forms suitable to the local needs.

Delhi On-Line Project

The Delhi government is planning to open 1,500 kiosks as one-stop mediators for all government-citizen and many private sector-citizen interfaces by 2007 end. These would provide a range of services from accepting various payments and applications for ration card, voter ID-card, etc., and delivering them. It would be managed by a private agency.

Mithanin—A Women Empowerment Initiative

Mithanin, which means friend, was started in 2003 by the Chhattisgarh tribal population. It is overseeing the implementation of most of the government schemes (primarily in health, women & child development and education) and giving feed back to the administration as true friends. It is setting up examples 'how women can overcome hardships and become empowered.' They inspect *anganwadi* centres, ensure proper serving of mid-day meal, and visit primary schools and health centres. As a result, the children are now getting nutritious food and regular teachers at schools.

Himachal State Wide Area Networking (HIMSWAN) Project

This project is for networking of all offices down to the *Panchayat* level in Himachal Pradesh. Its main objective was to make available all desired

information to the common man at his doorstep. The *tehsil*, *sub-tehsil* and block would have provision for wireless connectivity with the *panchayats*. All offices would be horizontally connected with other offices at different locations. The HIMSWAN network, which was extended only up to the district-level, would now be available to the people up to the block level by the next year. Video conferencing facility could be made available even in the remotest areas of the state. Thus, HIMSWAN project, with 131 models, would be dovetailed with the integrated community service centres being set up in the state at various levels to provide over 40 different kind of services to the people under the single roof. These services would range from land records retrieval facilities to all type of certificates issued by the revenue authorities, besides facilitating payments of consumer bills.

Accordingly, the people would now be able to use the network to register their grievances and make suggestions on voice channel using Interactive Voice Response System (IVRS). This network would supplement the endeavour of the government towards computerisation of entire administration to provide efficient services and ensuring transparency.

Lokvani

Lokvani is a unique e-governance digital G2C (Government to Citizen) initiative to provide citizens an opportunity to interact with the government without visiting any government office. Based on a study of the strengths and weaknesses of similar initiatives in the districts of Jhalawad (Rajasthan) and Dhar (Madhya Pradesh), it is the combined effort of National Informatics Centre and District Administration in Sitapur (UP). Instead of opening new kiosks, existing cyber cafes/computer training institutes have been granted licenses to become *Lokvani* Centres to ensure the financial viability and the long-term sustainability of the kiosks. The Rate List for the kiosks' services has been finalised and care has been taken to ensure that they follow the prescribed pricing. Going forward, the kiosks are to be opened at the *Nyay Panchayat* level to increase the reach of the service.

As a result, the citizens now need not to visit the government offices. They can now avail online several government services like Land Records, Arms license application status, GPF accounts of basic education teachers at various level. It also provides details of various government schemes, developmental works and funds allotted, prescribed forms, lists of old age pensioners and scholarship beneficiaries, allotment of food grains to kotedars and funds to *gram panchayats* etc. More services like Online Registration of Death/Births, Certificates for SC/STs, Domicile etc., are planned to be offered.

Lokvani can be accessed on the Internet at www.sitapur.nic.in/lokvani (User Name: guest, Password: guest). This system has not only given

citizens a practical access to the Right to Information Act and an avenue to track the progress of their grievance, but also provided the administration an effective tool to monitor the performance of various departments. In view of its utility, Govt. of U.P. issued an order on 16-06-2005 to replicate Lokvani in the entire State. Accordingly, 30 other districts of UP have started implementing Lokvani based citizen services.

Feedback from Kiosks revealed that more than half of the complaints were satisfactorily resolved. Plans are now for more services like online registration of death/births, certificates of SC/STs, domicile, etc. The challenges for the Lokvani are, however, not few. The system has to evolve in a way so as to reduce the dependence on the DM's direct interest in the project. This is possible if DM's progress is monitored and compared at the state level. The financial viability of the kiosks at the village level is a hurdle, which can be overcome by creative ways to distribute services and commercial products.

APSWAN (AP State Wide Area Network)

It is to connect all district Headquarters and the State Government's offices in Hyderabad in the form of a multi-service wide-area network. APSWAN will apply information technology for the economic development of the State. This will be the backbone network for data, voice and video communications too by interconnecting the PABX exchange at Hyderabad and exchanges at the district headquarters through a linked numbering system. Under the Build-Own-Operate model, the expenditure on infrastructure, maintenance and operation, including staff, will be the responsibility of United Telecoms Limited (UTL)—a government owned corporation. Besides, the government departments and other state agencies such as the electricity board, transport department and health institutions, universities would also be linked to APSWAN. Some services that will become available include hotline, voice-conferencing and broadcasting for various tiers of the government. It is also proposed to provide Internet access *via* APSWAN to the *rythu bazaars*, or season markets. This will allow monitoring officials at the state level to ascertain the prices of vegetables in different *rythu bazaars*. The network has the potential of revolutionising the interface between citizens and the government and contributing to better accountability and responsiveness of the government.

Lok Mitra (Integrated Citizen Service Centre/e-Kiosks ICSC)

Lok Mitra is a one-stop, citizen friendly computerised centre of Rajasthan, to provide relief to a common man at a single window. It is an e-governance project which has facility of making payments for the following through internet using Credit Card:

- Electric bills—Jaipur Vidut Vitaran Nigam Ltd.
- Water bills—PHED.
- Online bus reservation & ticketing—RSRTC.
- Issue of Birth & Death Certificate—Jaipur Municipal Corporation.
- House Tax & other fees/charges—Jaipur Municipal Corporation.
- Various due for House sites/House—JDA and Housing Board.
- Other services like telephone bills etc. are under implementation.

In this, the computer server is linked to different departmental servers through Dedicated Leased Line & Dial-up Network with multiple e-counters which can handle all services.

Lok Mitra (Himachal Pradesh)

Taking the benefit of Information Technology (IT) in governance, the Government of Himachal Pradesh through this project providing various direct/indirect social as well as economic benefits to the rural masses. These include:

- Visible enhancement of citizen services.
- Efficient delivery of government services to citizens and business.
- Submission of various forms, requests and complaints to the Administration (including availability of such forms at these Kendras).
- Improving efficiency in government administration by fixing responsibility.
- To improve the lot of poor and downtrodden people and stop their exploitation by acting as a mediator between the Government and public.
- Better dissemination of government information.
- Facilitating the growth of IT industry by encouraging the setting up of additional such Booths in the private sector resulting in self employment.
- To connect the rural masses through IT Awareness with the main stream.
- To bridge the existing digital divide: People living in urban areas are already using IT for interacting with Government. Various type of services readily available in big cities are online bill payment

without standing in queues, downloading forms, online filing of income tax returns, online banking, railway ticket booking, online hotel reservations etc.

More and more banks are going online providing Internet Banking. But what about the rural poor citizen who doesn't even have running tap water. They cannot imagine such a scenario. For such citizens, especially those below the poverty line, online water bill payment is a big joke and majority of the State's population is rural. Therefore, Lok Mitra has targeted at improving the quality of life of such people by providing them an interactive interface, which they can use with the help of trained people managing the Lok Mitra Sookna Kendras at their doorstep without much overheads.

Multi-purpose National Identity Card (MNIC)

With a view to preparing a 'National Register of Indian Citizens' comprising complete details of every individual living in the country, the Central Government has initiated a pilot project in 13 districts across 11 States and two Union Territories. Initially, it is planned as a part of long-term strategy to deal with the problem of illegal immigrants, who also pose a security threat in the bordering States. Once this MNIC is issued, there is no need for issue of other cards, like driving license, Election ID Card, Income Tax PAN, etc.

Touch Screen Information System

Its kiosk provides easy real-time access to common community information needed to avail a particular public service. This system is already in operation at the selected Railway Stations/Reservation Offices for the convenience of passengers. It provides information about reservation availability, status of wait-listed RAC tickets etc. by simply touching the screen. On entering the PNR Number and touching the display button, the current status of the ticket is instantly displayed on the screen. For availability position, enter the train number and date of journey, by following the instructions on the screen. Once the information has been entered, touching the display button will give the details of the availability of berths/seats on trains. This System reduces the waiting time at the reservation counters, provides quick information about the availability of accommodation and the current status of the ticket.

Passport Computerisation

Passport office in Thiruvananthapuram (Kerala) has started the Touch Screen Information kiosk, an electronically controlled token & queue

management system, and an automated telephone enquiry system in three languages. Such 'Touch Screen Information' and other systems, possibly with pictorial options, can also be followed by other public service delivery departments to provide hassle-free services to the common man.

The computerisation of the passport office in Delhi may be divided into various phases including basic computerisation, index card image capturing, online Index checking and passport printing. In addition, the computerisation of passport application collection centres, provision for authenticated e-mail services, communication between the passport offices and district offices through authenticated e-mail, electronic storage and retrieval of documents furnished by the applicants are in full swing. Apart from this, public facilitation services such as web enquiry, tele-enquiry, touch screen kiosks, SMS services, online registration are also in progress. The Passport Control Issuance System (PCIS) includes:

- Acceptance of application forms.
- Submission of supplementary documents.
- Revenue management.
- Police verification.
- PAC checking.
- Objection letters.
- Granting of passports.
- Passport allotment and printing.
- Passport booklet accounting.
- Dispatch of passports:
 - Management of undelivered passports.
 - MIS/Statistical Reports.
 - E-mail/Internet services.
 - Across the counter enquiry.
 - Telephone/Web enquiry.

Besides, an online index checking through creation of an Index Data Bank and a project to scan index cards at Passport Offices has been undertaken. It will assist in the simultaneous processing of the applications by different sections of passport offices. Presently, all the passport offices all over India have been computerised.

Exemplary e-Projects

Besides, the Central Department of Administrative Reforms & Public Grievances awards exemplary initiatives in e-governance every year to encourage e-governance. Some of these initiatives are as follows.

Asha is the Assam government's small farmers' agri-business consortium. It has been implemented to provide ICT (Information & Communication Technology) support to rural cultivators. Further information can be had from *sio-asm@nic.in*.

Dharitree: It is the first web technology-based land records computerisation project in the country. Going forward, the kiosks were to be opened at the *Nyay Panchayat* level to increase the services. As a result, instead of visiting all the way to the District Office, the citizens could avail several government services like Land Records, Arms License, Application Status, GPF Accounts of basic education teachers at the tehsil, block and town level itself.

On the same lines, the Madhya Pradesh Government has introduced **Bhu-Abhilakh**, i.e., the textual data of land records. It is a software used by the Offices of the Commissioner, Land Records and Settlement, Department of Revenue. It comprises computerised master database of land records having plot and owner-wise details of land, crops, revenue, irrigation, demand, collection, land type, tenancy, etc.

e-Pension for Pension Disbursement System in Himachal Pradesh: It is the complete reversal of the manual system of pension disbursal. After a number of process and procedural changes, pension processing is now done at District Treasury only instead of the sub-treasuries/bank branches, and the pension disbursal is through bank accounts only. It has resulted in direct benefits to both the State Government and the pensioners.

e-Payment: With e-Payment, India Post offers a possibility of hassle-free payment of all Bills. Its website ID is: *www.indiapost.gov.in*.

Vahan is computerisation and networking of Transport Department. Its important component is the smart card-based driving license and vehicle registration certificate (VRC). The basic guidelines issued by the Centre were: uniformity across the country; readability throughout the country; interoperability across States; and non-proprietary or open-source technology that would allow indigenous modification or development.

The **RSRTC** (Rajasthan State Roadways Transport Corporation) is providing the following internet based roadways services in Jaipur city through kiosks:

- Online reservation of tickets for A/C, Deluxe and Express Buses of RSRTC.

- Online Return Tickets.
- Online Cancellation of Tickets.
- Timings of Buses.

The system is operational for the last few years and roadways ticket reservations being made through 30-35 kiosks all over city.

Similarly, the Madhya Pradesh Government's E-sewa (www.mptransport.org) provides a lot of static as well as dynamic information, including all the prescribed forms, issue of certificates, etc., on the internet. Any information related to any vehicle can be had by using SMS.

Integrated Treasury Computerisation Project (ITCP) of MP Government connects almost 8,000 drawing and disbursing officers to improve the financial management of the State. Similarly, another initiative Cyber Treasury provides facility to make online tax/fee payments, i.e., 'any one, any where, any time' using net banking facility.

Khajane is a project of Directorate of Treasuries, Karnataka. It is a Government to Government service wherein all the district and *taluk* treasuries are networked for online delivery of services. Salaries of more than seven lakh government employees are paid through the system every month. Besides, 3.73 lakh pensioners and 14 lakh social security pensioners are also benefited through it. As it covers all the drawing and disbursing officers of 104 government departments, it has resulted in redeployment of manpower and better cash management.

Koshwahini is a web-based computerisation system for Government Treasury for Maharashtra. A similar project is also operational in Uttarakhand.

e-Pramanpatra is a software to facilitate the issue of various certificates like Caste Certificate, Marriage Registration Certificate, Domicile Certificate, etc. It is being used as single interacting office with the public by Dy Commissioner, Distt. Magistrate Offices of Delhi.

Delhi: The Datamation Foundation of New Delhi for e-inclusion of women of lower income areas of Seelam-Zaffrabad.

Andhra Pradesh:

- (1) Water harvesting structures' project in reserve forests.
- (2) Municipal Corporation of Hyderabad for the first e-enabling MCH immunisation project.
- (3) Rural health call centres offering emergency helpline for the Rural Life Line project.

(4) Commercial Tax Office (CTO)—for Commercial Taxes.

Kerala: REACT (Recruitment and Application Processing System) of Kerala Public Service Commission IT@school programme.

19

Police Department

Punjab: Community Policing Scheme (Initiatives in Community Participation)

Punjab Police has pioneered what is probably India's finest effort to improve relations between the Police and local communities.

— World Bank Report

Background

- Post-terrorism, the community was seen to be alienated from police personnel. Need was, thus, felt to modify the existing policing system and bring people closer to men and women in 'khaki'.
- It was feared that high number of Police personnel (at newly created Police stations and posts) would remain underutilised in the coming years.
- It was noticed that various pro-people steps initiated by officers withered away once they were transferred.

The Initiative

- Government has opened Community Police Resource Centers (CPRCs) in most districts of the State. These also function as victim relief centres.
- Each CPRC is allocated Rs. 10 Lakh from Police Modernisation Fund.
- While an elaborate state-level steering committee is in place, district-level committee is headed by an officer of the rank of Superintendent of Police (SP).
- Personnel of CPRCs have been trained to:
 - Focus on the rights, requirements and expectations of victims of crimes.

- Improve police response to victims of sexual and other violent crimes (especially trained woman officers help avoiding insensitive questioning).
- Community group volunteers and retired civil officers have been engaged in running help lines.
- The child protection unit in each CPRC has a library equipped with books of fiction and information on the work of police and creates awareness about rights of children, women and citizens.

Application

- CPRCs facilitate grievance redress to deal with common complaints such as problems in accessibility of police officers at lower levels.
- These act as nodal centres for community-oriented schemes such as:
 - Combating domestic violence.
 - Helping the aged.
 - Providing legal aid and arranging meeting with resident welfare associations, traffic regulation committees, and economic offences wings.
- Drug de-addiction campaigns and counselling for women.
- CPRCs act as community service-cum-information centres to:
 - Provide no objection certificates for arms license.
 - Help with verification for issue of passport.
 - Grant permission for political and religious processions.
 - Deal with requests for security arrangements.

Outcomes

- With the setting up of CPRCs, more than 80 per cent complaints received were disposed of, each taking an average of 19 days, in comparison to 37 days it took earlier.
- Number of public complaints increased after setting up of the Centres, which shows people were more forthcoming to register their complaints.

Andhra Pradesh: e-COPS (More Open Handling of Criminal Cases)

Background

- There were concerns on effectiveness, lack of transparency and complaints of corruption in the Police department.

- If a crime was committed, the victim (or a witness) had to go to their respective Police Station, and report the crime/file FIR. Paper-based processes were also subject to manipulation or getting lost.
- There were widespread allegations that many Police personnel demanded bribe to register cases, give updates with regard to the progress of case and to provide other information.
- A new system was designed by automation of some processes, along with statewide online accessibility for registration of cases, processing and follow-up of criminal cases with the aim to improve transparency.

Application

- With e-COPS system, a victim could go to any Police Station (not just local ones) and the Duty Officer would register the crime directly onto the system.
- Once case has been registered, it cannot easily be changed. The person registering the case also gets access to case details. The person can track progress at any point through net by using an FIR code number issued at the time of registration.
- The system makes available case details include FIR, action taken, action pending, other crime details, etc. on the internet.
- The victim could also lodge a complaint if he/she finds, from accessing case details, that the case has not been registered properly, or that there has been no progress made on the case since it was last accessed.
- Finally, senior police officers could also use e-COPS to monitor case details and progress. All of this introduces the transparency of handling a case and the accountability of Police officers.
- Effective coordination among different entities in criminal justice system is being ensured by interfacing for access and transfer of information—thus making it easier to collect inputs needed for proper and quicker investigation of a case.
- e-COPS is being integrated with the fully computerised Fingerprint Analysis Criminal Tracing System (FACTS).
- It maintains a database of listed offenders in all criminal cases reported. The database can be accessed by various Police Stations

through an e-network, thus assisting Police officers in their investigations.

- A user-friendly interface has been developed that enables the system to be handled even at constable level.

Benefits

- Using e-COPS has resulted in significant reduction in time required to register a criminal case, and locate relevant information. (Previously, it took a few days to get FIR properly recorded; with e-COPS it takes an hour or so).
- Victims of crime away from their home can register crime immediately, rather than having to return home, as was the case earlier. This has eliminated problems of jurisdiction.
- By dis-intermediating Police officers to some extent, it has resulted in greater transparency and reduced scope for corruption.
- Once a complaint is registered, it is electronically transferred to the higher authorities. Consequently, the scope for delinquencies such as non-acceptance of a complaint, losing track of case, etc. is totally eliminated.

Other Major e-Projects in Pipeline

Common Integrated Police Application (CIPA)

This software has been developed—both in Hindi and English—to deal with police services across the country. It deals with several facets of policing like administration, lodging FIRs, investigations, prosecution and information. Hence, the registration of FIRs will become quite easy, clear, and legible. The complainants will now get a copy of FIR right away. The system will thus ensure speedy retrieval of data to expedite the investigation. All the Police Stations and the DCPs' offices would be connected through Local Area Network (LAN). The investigation section will have details about all the developments in a case. The information section will carry profile of all criminals, including the first timers. This will ensure that once an accused is caught, the police will know about his/her previous involvement. Thus, sketchy and illegible FIRs, often resulting in sloppy investigations, will not be possible. This programme was inaugurated by the Lt. Governor of Delhi on December 16, 2005. Now, the New Delhi district is being used for the Pilot Project.

Haryana was also planning to apply this software in its 22 Police Stations in 2006 and another 68 Police Stations in next 2007. All the records available at these Police Stations would be fed into this system

soon. Hence, the cops posted at these stations will be able to investigate faster and there will be no possibility to temper with the information.

However, to make this system more effective, it is suggested that the existing cyber cafes/computer training institutes should be involved in this programme. To this end, all the Police Stations should be asked to arrange training programmes for all cyber cafes/computer training institutes in their circles for registering online FIRs. If adopted, such an arrangement would encourage the cyber cafes/computer training institutes to extend other e-Governance services, and eliminate the scope of bribery or exerting unnecessary influence on the police for registration of FIRs. It would also improve the image of Police to whom the common man wants to avoid.

e-Interrogation

The Nagpur Rural Police is experimenting this software in its sub-districts to interrogate criminals *via* computer, while accused are in lock-ups (situated anywhere 50 to 80 kms. from the headquarters) and sitting in front of a webcam. Investigating Officers are sending the case diaries and other relevant documents *via* internet after scanning them. The tactful interrogation are claimed to have resulted in confession of guilt and revelation of crucial information. It is realised that though there could be certain shortcomings in this technique, the process is transparent and simple. It has eliminated complaints of human rights violations and any custodial torture. Besides, it saves time, energy, manpower and money. The Nagpur Rural Police is also experimenting e-policing through video-conferencing for regular interaction with the villagers.

Aarakshi

It is an Intranet based system that has been developed and implemented for Jaipur City Police. This innovative system enables the city police officers to carry out on-line sharing of crime & criminal data bases, carry out communication and perform monitoring activities. This Software provides a facility to update & perform queries on database of:

- FIRs.
- Latest news of criminals & crimes.
- Telephone Directory of Police Officers.
- Messaging.
- Instructions of Police Control Room on Real Time basis.
- Habitual offenders' details along with photo gallery.
- Description of criminals.

- Missing Persons.
- Police Personnel.
- Property Details.
- Numbered/Unnumbered property.
- Vehicle theft/seizure.
- Cultural property.
- Transparency in the system helps in enhancing public interface and confidence.

Digital Recording

Under this system, criminal investigations and judicial process are linked with the audio-video recording. All the Police Stations, Forensic Labs and the Jails are connected with fibre optics. Use of Digital Pen having the capacity to record every proceeding in the Central Server simultaneously is the most important element of this system. Hence, there is little possibility to change records afterwards. This is likely to be adopted by the Mumbai Police sometime in 2007.

Crime Scene Recording System

The Ministry of Science & Technology and Microsoft have developed this computer-based programme for acquisition, storage and retrieval statements and evidences collected from the scene of crime. It also has a provision to retrieve previous First Information Reports (FIRs) in order to help to correlate crime and enhance the speed and degree of fair dispensation of justice. It has two parts. One is like an electronic notebook. Once police officials write their observations, leads, evidences and statements made by witnesses on it, nothing can be erased.

The other feature is a camera and audio system, which would be inside the crime scene recorder, to ensure the interviews and interrogations made by the police gets recorded for good. It is claimed that this system will make it difficult to temper with evidence. This system has been tested by police officials in Rajasthan and Uttarakhand.

ZIPNET (Zonal Integrated Police Network)

Delhi Police has developed a web-based module embedded with ZIPNET to trace missing or stolen mobile phone handsets. This will allow the police stations in Delhi and NCR to register all missing mobile phones. It will help police to identify all the stolen phones and the prospective buyers to ensure that the phone proposed to be purchased has not been stolen. To know the

status of such phones, one has to know first the IMEI number by pushing *#06# and then see the Delhi Police website www.delhipolice.nic.in

Computerised Remote Identification of Suspects (CRIS)

Delhi Police have acquired this new fingerprint based system to facilitate instant identification of criminals. Initially, this system has been installed in the Finger Print Bureau and a police station each in all nine districts. With this, Police can identify at once more than 1.6 lakh criminals whose fingerprints are already available with them.

Improvements in Methods of Medical Examinations

According to Dr. Gaurav Aggarwal, National Convenor of the Indian Medical Association (IMA), major reason for the low conviction rate is the absence of a uniform protocol in the current methods of medical examinations, which provide prime evidence in most of the criminal cases. Most of the doctors do not have any formal training in writing a medico-legal report. There is no uniform medical kit to conduct such tests, and its availability also contributes to the accused going scot-free. According to Dr Sharda Jain, Chairperson of IMA's Women's Wing, 'even doctors do not know what sexual abuse comprises and how a medical test needs to be done in such cases'.

In view of this poor conviction rate in crime due to lacunae in the current methods of medical examinations, IMA has prepared a uniform protocol and a manual on how to conduct a medical examination, particularly in cases of sexual abuse. To this end, a film on how to conduct a proper and stepwise examination of a rape and trafficked victim has also been prepared. IMA plans to hold workshops to train doctors in conducting medical examinations and intends to involve police in the process.

Reducing Police Workload through Outsourcing

In view of heavy workload *vis-à-vis* size of the police force, the government has decided to enact a legislation whereby some of the police responsibilities can be outsourced to authorised private detective agencies, while core policing may remain with the police force. These responsibilities may include serving of summons; verification of passports, pre-employment checking, character verification, deposit of various penalties, etc. With this, the police force can concentrate on their core policing in an effective manner. This is also the practise in some of the western countries.

Decentralisation of Powers to Grant Parole

The Government of Delhi has conferred the power to grant custody

parole up to six hours in case of death, marriage or serious illness or any other similar circumstances of a family member to convicted prisoners on to Jail Superintendents. It is, however, subject to local police verification. Earlier, prisoners had to wait for months for their parole requests to get processed.

Formulation of Citizens' Charters

After going through a number of Citizens' Charters, TI India has prepared a suggestive Model Citizens' Charter, according to type of services various police offices provide to public, to enable the concerned service providers to adopt it according to their circumstances. Accordingly, separate Charters have been developed for the Police Directorate, its subordinate offices, Police Stations, Traffic Police, Special Branch, etc. These should be finalised after having a detailed discussion with the concerned service providers, service seekers and the genuine NGOs representing the concerned citizens and services.

Office of the DGP/IGP/DIG or Commissioner of Police/Jt.CP/Addl.CP

Website : <http://www.>

(As on date _____)

A. Name of Officer I/c -

Tel No. - Office	Res.	Mobile
E-mail ID -		SMS No.
Meeting Hours -		

B. Name of Alternate Officer -

Tel No. - Office	Res.	Mobile
E-mail ID		SMS No.
Meeting Hours -		

Correspondence

Any person can give his complaint by hand and obtain its receipt. The facility of specially earmarked drop boxes is also available at the following places (Mention them):

Any person can also have access even to the senior most officer by addressing him in writing directly. Copy of such a letter/complaint can be put in the complaint/suggestion boxes placed at every Police Station and offices of other senior officers.

Helpline

Police Control Room Phone No. - 100 (mention your no.)

Locations of Office of the IGP/DIG or Jt.CP/Addl.CP

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside the Offices of the DGP/IGP/CPs)

(As on date _____)

Sl. No	Name & Location of Office with land marks	Designated Officer					Designated Area	Meeting Hours	Alternate Officer				
		Name & Designation	Tel. No.			E-Mail ID/SMS			Name & Designation	Tel. No.			E-Mail ID/SMS
			Off	Res.	Fax					Off	Res.	Fax	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
IGP/Jt.CP													
1	1												
2													
3													
DIG/Addl.CP													
1													
2													

- Helpline for Women in Distress -
- Helpline for Senior Citizens -
- Traffic Helpline -
- Complaint Against Auto/Taxi -

Office of the SSP/SP or DCP/ACP

(Please fill the following Chart and mention the website ID. This may please be displayed prominently outside the Offices of all the SSP/SP/DCP/ACPs)

A. Name of Officer I/c -

Tel No. - Office Res. Mobile
Meeting Hours - E-mail ID - SMS No.

B. Name of Alternate Officer

Tel No. - Office Res. Mobile
Meeting Hours - E-mail ID - SMS No.

Correspondence

Any person can give his complaint by hand and obtain its receipt. The facility of specially earmarked drop boxes is also available at the following places (Mention them):

- 1.
- 2.

Any person can also have access even to the senior most officer by addressing him in writing directly. Copy of such a letter/complaint can be put in the complaint/suggestion boxes placed at every Police Station and offices of other senior officers.

Locations of Police Stations/Circle Offices

(As on date _____)

Sl. No	Location of Offices with land marks	Designated Officer				Designated Area	Meeting Hours	Alternate Officer				
		Name	Tel No.		E-Mail ID			Name	Tel. No.			E-Mail ID
			Off.	Res.					Office	Res.	Fax	
1	2	3	4	5	6	7	8	9	10	11	12	13
1												
2												
3												
4												

Helpline

- Police Control Room Phone No. - 100 (mention your no.)
- Helpline for Women in Distress -
- Helpline for Senior Citizen -
- Traffic Helpline -
- Complaint Against Auto/Taxi -

Office of the SHO/Inspector of _____Area

(Please fill the following Chart and mention the website ID. This may please be displayed prominently outside the Offices of Area SHO/Inspectors)

A. Name of Officer I/c -

Tel No. - Office Fax. Res.
Meeting Hours - E-mail ID - SMS No.

B. Name of Alternate Officer

Tel No. - Office Fax. Res.
Meeting Hours E-mail ID - SMS No.

Provide details and procedure for availing various services in the following format:

(As on date -----)

Services Offered	Documents required (Self Attested)	Form, if any Required	No. of Days timely, pl. contact	If not done			Remarks	
				Name & Designation	Telephone No.			
					Off.	Res.		Fax
1	2	3	4	5	6	7	8	9
Registration of Security Agencies								
Permission for Functions, etc.								
Certification of Losses								
Registration of FIR								
Issue of Arms and Ammunition Licenses								
Licenses of Cinema, Video Games, Parlour, etc								
Licenses of Eating Houses & Hotels								
Licenses of Fire Crackers								
Licenses of Poisons								
Licenses of Fire Crackers								
Licenses of Sulphur								
Licenses of Swimming Pool								
Licenses of Amusement Activities								
Licenses for Registration of Newspapers & Journals								
Licenses of Declaration of Printing Press								
Grant of NOC for Fresh Petroleum Stations and Storage								
Misc.								

Duty of the Officer in Charge of the Police Station

To prevent and detect crime and maintain law & order within his/her jurisdiction, Police Stations/Police Posts are responsible for:-

1. Registration of FIR/NCR and investigation of the cases, arrest of the accused, recovery of stolen property, challaning of the cases and prosecution.
2. Depositing unclaimed property under Police Act.
3. Recording report regarding missing persons and children and tracing them.

11. Public hearing for redress of grievances.
12. Helping rape and other victims of heinous crime. (Rape Crisis Intervention Centre).
13. Implementation of Neighbourhood Watch Scheme.
14. Assisting and involving NGOs in community oriented policing.
15. Organising meetings with Residents Welfare Associations/Mercantile Traders Associations to sort out their safety related problems, security and maintenance of peace in the localities wherever necessary. Organise meetings at various levels.
16. Coordination with other units like Traffic, PCR etc.

Rights Extended to the Persons Arrested, Detained in Police Custody as per NHRC Guidelines

1. The power to arrest without a warrant should be exercised only after a reasonable satisfaction and after some investigation, as to the genuineness and bonafides of a complaint and a reasonable belief as to both the persons' complicity as well as the need to effect arrest.
2. Arrest cannot be justified merely on the existence of power, as a matter of law, to arrest without a warrant in a cognisable case.
3. The question whether the power of arrest has been exercised reasonably or not is clearly a justifiable one.
4. Arrest in cognisable cases may be considered justified in one or the other of the following circumstances:
 - (i) In cases of grave offence like murder, dacoity, robbery, rape etc., it is necessary to arrest the suspect to prevent him from escaping or evading the process of law.
 - (ii) The suspect is given to violent behaviour and is likely to commit further offences.
 - (iii) The suspect requires to be prevented from destroying evidence or interfering with witnesses or warning other suspects who have not yet been arrested.
 - (iv) If the suspect is a habitual offender, he is likely to commit similar or further offences unless arrested.
 - (v) Except in heinous offences, an arrest must be avoided if a police officer issues notice to the person to attend the police station and not leave the station without permission.
 - (vi) The power to arrest must be avoided where the offences are

bailable unless there is a strong apprehension of the suspect absconding.

- (vii) Police officers carrying out an arrest or interrogation should bear clear identification and name tags with designation. The particulars of police personnel carrying out the arrest or interrogation should be recorded contemporaneously, in a register at the police station.

Arrest

1. As a rule, use of force should be avoided while affecting arrest. However, in case of forcible resistance to arrest, minimum force to overcome such resistance may be used, and care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided.
2. That the police officer carrying out the arrest shall prepare a memo of arrest against the arrestee. Such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
3. The dignity of the person being arrested should be protected. Public display or parading of the person arrested should not be permitted at any cost.
4. Searches of the person arrested must be done with the due respect to the dignity of the person, without force or aggression and with care for the person's right to privacy. Searches of women should only be made by other women officers with strict regard to decency.
5. The use of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law.
6. A person who has been arrested or detained and is being held in custody in a police station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.
7. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid

Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

8. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
9. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
10. As far as practicable, women police officers should be associated where the person or persons being arrested are women. The arrest of women between sunset and sunrise should be avoided.
11. The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The 'Inspection Memo' must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
12. Where children or juveniles are to be arrested, no force or beatings should be administered under any circumstances. For this purpose, police officers may associate respectable citizens so that the children or juveniles are not terrorised and minimal coercion is used.
13. Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language, which he or she understands. Again, for this purpose, the police, if necessary may take the help of respectable citizens. These grounds must have already been recorded in writing in police records. The person arrested should be shown the written reasons as well and also given a copy on demand.
14. Apart from informing the person arrested of the above rights, the police should also inform him of his right to consult and be defended by a lawyer of his choice. He should also be informed that he is entitled to free legal aid at state expense.
15. When the person arrested is brought to the police station, he should, if he makes a request in this regard, be given prompt medical assistance. He must be informed of his right. Where the police officer finds that the arrested person is in a condition where he is unable to make such request but is in need of medical help,

he should promptly arrange for the same. This must also be recorded contemporaneously in a register. The female requesting for medical help should be examined only by a female registered medical practitioner.

16. Information regarding the arrest and the place of detention should be communicated by the police officer effecting the arrest without any delay to the police control room and District/State Headquarters. There must be a monitoring mechanism working round the clock.
17. The information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest to the District Control Room and Police Control Room within 12 hours of effecting the arrest. Further at District/Central Police Control Room it should be displayed on a day to day basis at a conspicuous place on a notice board. Every police station shall also display the details of arrestees at a conspicuous place for the knowledge of the public.
18. As soon as the person is arrested, police officer effecting the arrest shall make a mention of the existence or non-existence of any injury(s) on the person of the arrestee in the register of arrest. If any injury is found on person of the arrestee, full description and other particulars as to the manner in which the injuries were caused should be mentioned in the register, which entry shall also be signed by the police officer and the arrestee. At the time of release of the arrestee, a certificate to the above effect under the signature of the police officer shall be issued to the arrestee.
19. If the arrestee has been remanded to police custody under the orders of the court, the arrestee should be subjected to medical examination by a trained Medical Officer every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. At the time of his release from the police custody, the arrestee shall be got medically examined and a certificate shall be issued to him stating wherein the factual position of the existence of non-existence of any injuries on his person.
20. Copies of all the documents including the memo of arrest, referred to above, should be sent to the area Magistrate for his record.

After Arrest

1. The person under arrest must be produced before the appropriate court within 24 hours of the arrest.

2. The person arrested should be permitted to meet his lawyer at any time during the interrogation.
3. The interrogation should be conducted in a clearly identifiable place, which has been notified for this purpose by the Govt. The place must be accessible and the relatives or friend of the person arrested must be informed of the place of interrogation taking place.
4. Methods of interrogation must be consistent with the recognised rights to life, dignity and liberty and right against torture and degrading treatment.

Citizen's Obligations

1. To inform the local police about the persons living in the area without any regular means of livelihood and living a lavish life or persons involved in any type of nefarious activities.
2. May inform the local police any suspicious activities, which may affect their safety and security.
3. The particulars of the domestic help and the tenants may be sent to the local police for verification to prevent entry of criminals and antinational elements in their houses.
4. To observe Traffic rules, follow the lane system and cooperate with the traffic police for smooth mobility and for avoiding inconvenience to others.
5. May not touch or lift any suspicious object, but inform PCR.
6. To adopt various home security and vehicle safety measures advised by the local police to prevent thefts and other crimes.
7. To assist local police in all possible manners for prevention and detection of crime and to maintain law and order.

Thana & District Level Committees

To promote interaction between the Police & the public, Thana and District Level Committees should be constituted in each District and Police Station, respectively. The *Thana* Level Committees should be represented by the Area MLAs, whereas District Level Committees should be represented by the MPs. Monthly meetings should be held regularly with the representatives of public.

Campus Complaint Box

Mention the location of complaint boxes fixed in universities, college and other institutions:

- 1.
- 2.
- 3.

These boxes are to be opened by the concerned SHOs and complaints so received, to be registered in Daily Diary of the Police Station for taking necessary action, under intimation to complainant.

Crime Branch

The Crime Wing in Metropolitan cities deals with specialised cases which fall in any of the following categories:

1. General Crime

- a) Robbery
- b) Kidnapping
- c) Burglary
- d) Homicide
- e) Auto Theft
- f) Special Investigation Team
- g) Bomb Disposal
- h) Missing Person

2. Economic Offences Wing

- a) Forgery Cell.
- b) Breach of Trust.
- c) Anti-Fraud and Cheating Cell.
- d) Land & Building Racket.

Important: In order to introduce accountability in the Police services, a mention should be made about an effective grievance redress mechanism (including the provision of compensation on the pattern of the Central ‘Right to Information Act-2005’ to the concerned citizen, if promised services are not provided as per specified time schedule and service standard.

Traffic Police

The function of traffic police basically pertains to traffic management, regulation, enforcement of traffic rules & regulations and road safety education to all road users.

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside the offices of Traffic Police)

(As on date _____)

Services Offered by Traffic Police	Documents Required (Self Attested)	Form, if any	No. of days required	If Promised Services are Not Delivered in-time, pl. Contact				
				Name & Designation	Tel. No.			Place of Contact/Room No.
					Off	Res	Fax	
Notification of Taxi Stand								
N.O.C for ‘No Challan Due’								
Permission to Commercial vehicles for entry in “No Entry Zones”								
N.O.C. for speed breakers								
Permission for road cutting/digging								

Important: In order to introduce accountability in Traffic Police, a mention should be made about an effective grievance redress mechanism (including the provision of compensation on the pattern of the Central 'Right to Information Act-2005' to the concerned citizen, if promised services are not provided as per specified time schedule and service standard).

In Case of Traffic Challans:

(As on date _____)

Services Offered by Traffic Police	Tel No	Documents required, if any (Self Attested)	Cash/ by DD	Working Hours	If promised services are not delivered in-time, pl. contact				
					Name & Designation	Tel. No.			Place of Contact/ Room No.
						Off	Res	Fax	
A. Places to make payment (Since many of the banks are having the computerized services all over India, arrangements can be made either with them, 'eBillPost' 'Easy Bill' or similar other agencies)									
B. If Challan is disputable, authority to be contacted									

The Traffic Unit is mainly responsible for:

1. Providing safe and smooth flow of traffic on roads.
2. Preventing road accidents.
3. Effective enforcement of traffic rules and regulations.
4. Inculcating a sense of discipline amongst road users and educating the general public including school children on road safety.
5. Ensure smooth and secure traffic movement for special occasions and VIP movements with minimal inconvenience to public.
6. Paste 'warning' prior to removal of vehicles parked at 'non-parking' zone.
7. Removal of vehicles parked at 'Non-Parking' Zones leaving the indications that the vehicle bearing the registration number _____ has been towed away to _____(name of the place)_____

The Traffic Unit is also responsible for:

1. Rendering assistance to public in various stressful conditions such as prompt first aid to road accident victims.
2. Assisting and advising various agencies in coordinated development of infrastructure for safe and smooth flow of traffic.
3. Protection of environment by taking appropriate steps for prevention of noise and air pollution.

4. Encouraging participation and involvement of public in traffic management and regulation.
5. Arrangements for various functions in the city.
6. Website information on traffic related matters.
7. Imparting traffic training in parks to school children.
8. Promotion of road safety through mobile exhibition van, painting, skit and essay competitions, debates etc.
9. Installation of traffic signals/blinkers/timers.
10. Smooth functioning of Prepaid Taxi/TSR booths.

Rights/facilities available to persons violating traffic rules/regulations

1. Compounding the traffic offence at the spot and pay the prescribed compounding amount to a traffic police officer without going to court. or
2. Go to court for its disposal/contesting etc.

Documents one should always carry while driving on the road

- Driving License.
- Vehicle Registration Certificate.
- Vehicle Insurance.
- Pollution Certificate.

Note: In case of non-availability of any/all such documents or attested copies thereof, the same can be sent by registered post within 15 days from the date of demand.

Mention facilities available to general public

- Traffic Helpline Phone No. ————— (and its timings)
- E-mail ID and SMS No. for any traffic related complaint/suggestion
- Postal address for lodging any traffic complaint/suggestion
- Traffic Website —————providing traffic related information
- SMS No. for seeking and disseminating information regarding traffic diversions, traffic signal failures, congestion on any road, road accidents details, notice details etc.
- Mode-wise addresses/offices and timings where payment of compounding amount for traffic violations can be made
- The places where Prepaid Taxi/TSR services are available

Special Branch

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside the office of the Special Branch)

(As on date _____)

Services Offered	Area	Address	Officer I/c	Tel No.			Time taken	Meeting Hours
				Off	Res	Fax		
Verification of - (i) Character and Antecedes (ii) Passport								
Registration of Pak Nationals								
F.R.R.O. and Visa Extension								
Any Other Service								

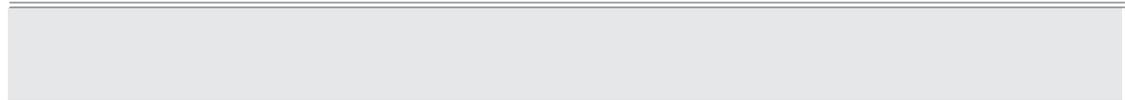
Mention Short Message Service (SMS) number to know the online status of passport verifications conducted by Special or Intelligence Branch with the following information:

File Number

Status

Name

Dispatch Number and date.



Recent Initiatives

Computerisation in Courts

e-Governance has been successfully implemented in the Supreme Court and 18 High Courts. As a result, pendency of court cases in the country has reduced from 1,52,000 in 1996 to around 29,000 in 2005 by clubbing cases on the basis of 'points of law.' Case status can now be got on the internet; judgments since 2001 are also available on the internet. A pilot project for making available digitally signed copies of orders immediately after an order is dictated was under progress. Since case-assignments are made by the computer, it is not now possible to shift certain cases to specific benches.

Apart from **video conferencing** with undertrials in the jails itself (with the judges in their chambers), an attempt is being made to speed up things with even 'virtual' benches. Similarly, while it took litigants up to six months sometimes to get certified copies of judgments, this is now available within half an hour. Indeed, in courts like in Delhi, judicial officers are being given laptops (along with a CD containing important judgments of the apex court and various high courts of the country), and training in ICT techniques. This is expected to ensure smooth and speedy disposal of cases and save a lot of time in studying precedents in similar cases. Already, the district courts in Delhi have been connected to one another and Tihar Jail *via* videoconferencing. For the benefit of litigants, a website featuring specific information (like cause lists, judgments, daily orders and bail lists) is in operation. According to former Chief Justice of India Shri Y.K. Sabharwal, district courts had witnessed a disposal of 17.3 lakh cases in 2004. Hence, he suggested on December 16, 2005 that the judiciary should make optimum use of facilities thrown up by modern technology for quick disposal of pending cases.

Further, the Supreme Court of India has started from October 2, 2006 permitting e-filing of cases/reply/rejoinder/applications/documents through any Advocate-on-Record or Petitioner-in-Person through internet from any where in the world. It includes service of notices and communications through e-mail. Court fee and other charges can be paid through Credit/Debit Cards. Further details can be accessed either from its website: www.supremecourtfindia.nic.in or from the Registrar (CC) at shahsg@msn.com

Plea Bargaining

According to a recent amendment in the Criminal Procedure Code, an accused in a criminal case, in which punishment of imprisonment is up to a period of seven years, can (i) plead guilty; (ii) file a plea bargain before his trial begins; (iii) if accepted mutually to both the prosecution and defence and the court is convinced that the plea is made voluntarily; and (iv) pay compensation in exchange for a reduced sentence. It, however, does not apply to socioeconomic offences or offences against a woman or a child below the age of 14 years.

Though such a step is considered a radical one to reduce pendency of cases and bring succour to undertrials, jurists are not sure about its effectiveness, because an accused in India prefers to face trial as his counsel ensures him to be acquitted, while in USA, the chances of conviction are very high, and the conviction may run into decades. However, this amendment has remained on paper because lawyers, prosecutors and even judges are not sure about how to handle the concept. Hence, workshops are being organised to familiarise the lower judiciary about its provisions.

Karnataka: An Exercise in Self-regulation

- On appointment, a judge attends *training in ethics, management, transparency, and public expectations*.
- Disclosure of assets: The new judge, before taking up the appointment, declares his or her assets and liabilities (including loans) to High Court Registrar. The disclosure includes family members (wife, son, daughter, and parents, if still alive). He repeats the declarations every year thereafter.
- The Vigilance Commission inspects the returns and makes discreet inquiries about the declarations.
- Members of the public have access to the declarations.
- Improving conditions of service receives constant attention.

- There is a 'self improvement scheme' whereby judges at regular intervals attend meetings to interact with each other and to prepare research papers on topics of interest.
- Checks on the system
 - Cases are allocated to judges on a random basis, and as late in the day as is practicable.
 - Transparency: Streamlined availability of information about cases and files, thus bypassing the lawyers and the court officials who previously had been insisting on payment before they would tell a person the stage his or her case had reached or when it was to be heard in court.
 - The disposal of old cases is continuously monitored to ensure that the numbers declined. Incentives are being provided to the judges who made significant progress in clearing backlogs.

Slovakia: Reforms in Justice System

Background

To solve the long delays in processing court cases, together with the perception of corruption in the assignment of cases to judges, the Slovak Ministry of Justice sought to automate and speed the workflow of all courts in the country. This system also enabled the random assignment of cases that helped in creating an anti-corruption environment within the judiciary.

Situation

Legacy of overwhelming case loads, lack of resources, insufficient judicial training, and institutional corruption.

Court procedures and hearings were complex and drawn-out, and there was no easy access to public registers maintained by the courts.

Administrative processes were never coordinated across the system. Since each court simply did its own thing, the system was open to abuse and corruption with the potential for plaintiffs to manipulate to ensure a particular judge would—or wouldn't—preside over their case.

Even when courts attempted more objective assignment methods, problems would arise.

Solution

- Reviewed the responsibilities of all judges and administrative staff and conducted an analysis of court cases passing through the system.

- The court workflow was redesigned with a view to automating as many of the procedures as possible.
- Local area networks were developed for all district and regional courts, which were then interconnected by wide area network.
- Administrative staff with more than 1200 judges was equipped with PCs and an overall court case management information system was implemented. The application features a number of modules, including:
 - Case filing, with random assignment of cases.
 - Court agenda for Civil Law section.
 - Court agenda for Commercial Law section.
- The Court Case Management application integrated with other information systems like legal information systems, commercial register and bankruptcies and recoveries database.
- The details of civil cases are entered directly into the court case management information system and an electronic file is generated immediately. The petitioner is given a case number and the name of the presiding judge, who is randomly selected by the computer.
- Every regional court is equipped with a training room, a moveable training center and e-learning tools to train district court staff and judges.
- The legal information system enables retrieval of laws and regulations, international treaties, court rulings, internal and government directives.

Benefits

Speeded-up Procedures and Quicker Decisions

- Impressive improvements in the speed and efficiency of case processing at lower and higher courts throughout the country.
- Number of steps in processing court cases has been reduced by a quarter.
- The time needed to locate and retrieve a case file has been reduced to a few seconds.
- Judges could increase their working time by 78 per cent.
- Reduction in time between filing and first hearing of case is reduced from 73 to 49 days.

- Reduction in time between first hearing and second hearing from 38 to 16 days

More Openness, Less Corruption

- Increase in transparency and openness in society.
- Creating an anti-corruption environment in the country's judicial system.
- All courts in Slovakia are now required by law to use the random assignment of cases, thereby reducing the opportunity for arbitrary action and helping to ensure that the country's judiciary is beyond reproach.
- Prior to creation of JASPI and commercial register Web sites, the justice system was a 'black box' to many people. Today, the company register is the most popular government Web site in Slovakia, receiving more than 4 million requests.

Appendix–A.20.1*Project Nyaya Sankalp***National Legal Services Authority's Initiative**

(Extracts from PM's address at the Inauguration of the *National Meet on Social Justice and Legal Empowerment..* August 19, 2006.)

“Our Government believes that democracy has no meaning for the citizens unless the citizen is able to secure his basic human rights, namely education, employment and the right to live a life of dignity and self-respect. It is in this context that the social and economic revolution that is now under implementation in a country like India has great significance for the future of entire humankind. Nowhere else you find a country of a billion people seeking its social and economic emancipation in the framework of an open society and an open economy and a polity committed to the rule of law and respect for fundamental human values. Our success will have profound implications for the evolution of humankind and the progress it makes in this twenty-first century. It goes without saying that along with economic and social empowerment of the people, legal empowerment is an important means to each of these ends. And that's why, the great importance of the work that you are engaged.

“Our government has taken several initiatives to revitalise our judicial system and legally empower our people. The National Common Minimum Programme places great emphasis on legal empowerment of all sections of our society, particularly the weaker sections. It is our sincere commitment to make our judicial section sensitive to the rights and needs of scheduled castes, scheduled tribes, other backward classes, minorities and above all our women.

“...the National Legal Literacy Mission is working hard to enable our people to derive the full benefits of the legal rights they enjoy as citizens of our proud Republic. Often the ignorance of law comes in the way of people asserting their rights and discharging their obligations. If people do not know the law, how can they be expected to abide by it? This becomes a major hindrance to the successful implementation of any legislation and contributes to the violation of laws. A large number of cases of violations are due to low legal literacy. Hence the Legal Literacy Mission seeks to promote legal awareness, redressing social and economic imbalances.

“...the National Legal Services Authority has taken the initiative to implement Project Nyaya Sankalp. This project aims to sensitise our judiciary to the cause of social justice and seek social protection for victims and survivors of trafficking and HIV/AIDS. I compliment you on making this one of the areas of focus of your meeting today.

“Sensitising each of the institutions of our democracy to the needs and concerns of the under-privileged is one of our top policy priorities...the rule of law can become a living reality for millions and millions of our people, only if the rights of law-abiding citizens are effectively protected and safeguarded. Only if justice is seen to be delivered and delivered in time only if the rights of the weak and the dispossessed are protected.

“For this we need a more efficient and more effective judicial machinery. A humane and a well-equipped judiciary. This is the responsibility of each of the pillars of our democracy—the executive, the legislature and the judiciary itself. I assure you that our Government will extend full support to the judiciary to realise these shared objectives of good governance.

“...there are concerns often voiced in various quarters about the delays in disposal of cases and the consequent backlog that has built up over the years. There is concern about the cost of litigation and the cost of obtaining justice. There is growing concern also about probity—or the lack of it – in some sections of the judiciary...we take great pride in the quality and effectiveness of our judicial system. But in the larger scheme of governance, it is incumbent upon any healthy institution to continue to reflect from time to time on its role, on the expectations from it and on the scope for improvement. This will help us take steps to improve our performance and to meet the fast changing needs of the times that we live in. Above all, it will make our justice delivery system more sensitive to the needs of the poorest of our people. Especially those who are most discriminated against in our society.

“A judicial system is a dispute resolution system and it must be recognised as a “service” which provides consumers expeditious and effective resolution of these disputes. It offers a mechanism for the enforcement of rights and obligations of individuals, a function which is essential in a functioning polity or for that matter a functioning economy. Therefore, an effective, efficient and humane judicial process is an essential foundation of good governance particularly in a country like ours, committed to the rule of law.

“The greatest challenge in this regard is in fact at the bottom of the pyramid where most of our citizens come in contact with the judiciary. The lower courts, the district courts, the courts that deal with petty offences, these are the ones that must be sensitized most to the concerns we are dealing with today. They are at the cutting edge of our governance.

“I sincerely hope this interaction between the political executive, state and district level officials and members of the judiciary will help us work together in the service of our people.”

Meanwhile, the Supreme Court has ruled to appoint the sitting Judge, instead of appointing a retired High Court Judge, as head of State Legal Services Authorities as he can exercise his powers more effectively.

**Rajasthan: Shiksha Karmi Project (SKP)
to Deal with Shortage of Teachers**

One of the major causes of irregular functioning of primary schools, poor scholastic standards and high dropout rates is shortage of teachers and their absenteeism, particularly in remote rural areas. According to some estimates, nearly 89 per cent schools in rural areas are functioning in multi-grade situations, where one or two teachers have to teach a number of classes simultaneously. It is difficult to find fully qualified teachers who would willingly accept postings in remote villages, far less actually take up residence there. A primary school in such a village usually tends to become dysfunctional, leading to high dropout rates and poor enrolment. One of the ways to solve this problem is to introduce this concept of para-teachers.

The SKP, being implemented in Rajasthan since 1987, aims to transform dysfunctional schools into more efficient ones with the help of locally available youths, *albeit* with lower qualification. Under the SKP, regular teachers are replaced by local teachers who are less qualified but specially trained. A Shiksha Karmi (SK) is a local person with the minimum qualification in case of a male being Class VIII and female Class V. To overcome the problem, Shiksha Karmis are given intensive training through induction programme as well as periodic refresher courses. The project is being implemented by the Government through the Rajasthan Shiksha Karmi Board (RSKB) with assistance from voluntary agencies.

As a result, there has been a sixfold increase in the enrolment of children in schools taken over by the project. A significant number of children covered by SK schools are from among Scheduled Castes/Scheduled Tribes. Moreover, per child annual cost under the SKP was Rs. 1065 (in 2000) against Rs. 2170 in government schools.

Aarohi (Uttarakhand): Microsoft Corporation India Private Ltd have launched its first IT Academy in the state of Uttarakhand to train over 7500 teachers over the 5 year period. Poised to be the nodal point for imparting IT training to teachers across the state, the IT Academy would be equipped with a state-of-the-art IT lab complete with latest hardware, software, curriculum and staff for effective delivery of IT training for school teachers.

Karnataka: Involving Parents in School Management

School Development and Monitoring Committees (SDMC), introduced by Karnataka Government, is a novel way of involving parents in the management and administration of schools. SDMCs were aimed to target several ailments, including attendance of teachers and punctuality, both chronic problems in government schools nationwide.

The general council, which consists of parents of children studying in the school, is the highest body. It elects 9 parent representatives. They, in turn, elect a president. The core group can co-opt other members into the committee who may not be parents of school children. They may include elected representatives, officials and members of community at large. The committees have several powers:

- Ensure proper functioning of the school and also paying attention to teachers' attendance and punctuality.
- The President of SDMC will have the powers of sanctioning leave to school Headmasters.
- It decides on local holidays, which should not exceed four days in a year.
- SDMCs can examine documents and money receipts for all the expenditure of the school.
- They can auction crops grown in the school lands and remit the money to the school education fund.
- They can also use the funds available from the *taluk panchayat*, *zila panchayats* and central government to buy materials required for the school.

However, the implementation of the project was marred by very low level of awareness and enthusiasm among the target community. For example, a study undertaken by the state government found that less than half of the SDMC members (48 per cent) were unaware of its exact composition and function. In fact, 66 per cent of the respondents reported that they were even unaware of any government circular on SDMCs. A very few were aware of the actual procedure and powers of the committees.

Nevertheless, the model holds potential and with proper dissemination of information and holistic training of the target community at the local level can improve the quality of school administration.

Rajiv Computer Literacy Programme in Assam has already been implemented in 400 schools covering 1,50,000 students in places even as remote as Majuli, a remote island in Brahmaputra. Students are taught Physics, Chemistry, Mathematics and English using computers. The facilities in remote areas were as good as those in Guwahati. Another project, titled 'Aarohi' (computer aided education programme in government schools) is being run in Uttarakhand.

Application of Information Technology

The Information Technology is supporting the education sector to improve its efficiency. To this end, NIC has developed a number of projects like Computerised Admission System of CET (CASSET).

Formulation of Citizens' Charters

After going through a number of Citizens' Charters, TI India has developed a suggestive Model Citizens' Charter to enable the concerned service providers to adopt it according to their circumstances. Accordingly, draft Citizens' Charters have been developed for the various Education Offices, namely, Education Department, District Education Department and the Primary School, dealing with Primary Education. It should be finalised after having a detailed discussion with the concerned Service Providers, Service Seekers and the genuine NGOs representing the concerned Citizens and services.

Citizens' Charter for Education Department

(It should be prominently displayed outside the Education Department)

1. The norms for opening a Primary School and its responsibilities will be made public. Applications for registration of a School shall be duly acknowledged and replies will be given within_____ days.
2. Efforts should be made to simplify Application Form for opening a School. Such forms should be made available on the concerned website to enable the applicants to get them copied and use it.
3. On the pattern of the Central Right to Information Act 2005, a provision should be made about the compensation to the complainant if the promised standard of services has been deficient.
4. Any complaints can be made to the following:

*D. Location of Private Primary Schools in ————— (City/Distt.)
(with prominent Land Marks)*

(As on date—————)

Name of School	Address (where to go)	Up to which class	Medium of instructions.	Boys/ Girls/Both	Name of Person I/c with Tel No O/R	Any Specialty i.e., Disabled Children	Details of Reservation	Boarding Facilities	Mid-day Meal	Working Days & Hours

Citizens' Charter of Primary School

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside the School)

Session Starts from —————

(As on date —————)

Class/ Standard	Criteria for Admission	Formalities Required including Age		Fees Payable			Last Date of Application	Designated Officer		Extra-curricular facilities
		Form	Documents (Self Attested)	Application	Admission	Details of Other Periodical Charges		Room No.	Tel No.	
Pre-primary - Nursery-KG										
Primary First										
Second										
Third										
Fourth										
Fifth										

Citizens' Charter of Primary School (Infrastructural Details)

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside the School)

Session Starts from —————

(As on date —————)

Services	Eligibility	Formalities Required		Fees Payable	Designated Officer			Details of Extra-curricular facilities
		Form	Documents		Name	Room No.	Tel No.	
School Leaving Certificate								
Transportation								
Medical Check up & First Aid								
Library								
Computer & Lab Facilities 1) Scholarships 2) Fee Concession								
Social Worker & Counselor								
Canteen								

...Contd. ...

...Contd. ...

Services	Eligibility	Formalities Required		Fees Payable	Designated Officer			Details of Extra-curricular facilities
		Form	Documents		Name	Room No.	Tel No.	
Drinking Water. Separate Toilets, etc.								
Details of Welfare Activities Available								

Grievance Redress Mechanism

Officer to be approached	Meeting Time	Phone Nos.		Information Officer		Any other information	Remarks	
		Office	Res.	Name	Telephone			
					Office			Res.

- Note:* 1) These should be prominently displayed in simple and easy language at all places likely to be visited by the service seekers. It could be easily visible to them.
- 2) Staff should be citizen friendly & courteous and facilitate the visitors in getting various services, including the filling up of forms.
- 3) The names of officials, their designation, telephone numbers and addresses to whom the visitors are expected to contact for various services and their grievances/complaints will be prominently displayed at the concerned office premises.
- 4) On the pattern of the Central Right to Information Act 2005, a provision should be made about the compensation to the complainant if the promised standard of services has been deficient.

For Suggestions/Complaints, contact:

Name:

Designation:

Address:

E-mail Id:

Location (with prominent landmarks):

Tel. No. (Off.) _____ (Res.) _____ (Mobile) _____ Fax _____

Electricity Services

Andhra Pradesh

The government of Andhra Pradesh launched a campaign in 2000 to control the theft of electricity and improve revenue collection in the electricity department. Within a few years, with institutionalisation of new business processes and visible changes in their organisational culture, losses have been reduced, revenues boosted, and customer service improved.

Background

The Andhra Pradesh State Electricity Board suffered huge financial losses in 1990s. In 1999, only 42 per cent of the electricity flowing into distribution system was billed on metered consumption. In 1998, Andhra Pradesh government initiated comprehensive reform in the power sector to establish a new legal, regulatory, and Institutional framework; developing a new industry and market structure; and privatise distribution.

- The new distribution utilities inherited a weak system of energy accounting and rampant electricity theft that, together with revenue leaks and other factors, undermined financial performance.
- Revenue leaks resulted from weaknesses in metering, billing, collection, internal systems, and enforcement of the disconnection policy.
- The unverifiable estimates of sales and losses allowed the utilities to camouflage inefficiency and theft and to deflect public scrutiny of their poor performance and hide political and bureaucratic corruption.
- The theft occurred in several ways, including tapping power lines, tampering, bypassing meters etc., often with the connivance of utility staff.

The Plan

- The first step to reform was to move beyond denial and accept the existence of theft. An energy audit program led to more realistic estimates of transmission and distribution (T&D) losses and recognition of ‘non-technical losses’—a euphemism for electricity theft.
- A comprehensive plan for controlling theft and improving accountability was prepared, focusing on four measures:
 - enacting a new law to address electricity theft,
 - strengthening enforcement mechanisms,
 - reorganising the anti-corruption function in the utilities, and
 - reengineering business processes to improve management and customer service.
- The State Government amended the Indian Electricity Act of 1910 to make electricity theft a cognisable offense and to impose stringent penalties. Separate laws provided for mandatory imprisonment and penalties for offenders, and recognised collusion by utility staff as a criminal offence.
- The utility service areas were divided into ‘circles’ and special courts and police stations established in each circle to ensure rapid detection and prosecution of person stealing electricity. The state police and anti-corruption units of other departments were directed to support utility employees to control theft.
- The government initiated institutional changes in the utilities. Their anti-corruption department was strengthened by promoting its head from an advisory to an executive position on the board, and the organisational structure was modified to strengthen the department’s coordination with other departments.
- In addition, the anticorruption department’s procedures were made simple and transparent. Inspecting officers provide an inspection report with an identification number to customers on the spot and carry numbered receipts so that they can accept payments of fines.
- Police stations provided public notification of all theft cases. A new tracking system follows the progress from inspection to payment of fine/prosecution. Inspection teams were deployed throughout state to launch theft control drive.
- To re-engineer business processes, new management control system, the ‘customer analysis tool,’ was developed. It used

centralised customer database to analyse metering, billing, and collection performance allowing monitoring of staff's performance against their collection targets and generates reports useful for initiating corrective and focused action.

Consultation with Stakeholders

- The government launched a communication program through media ads, posters, and videos, and a public outreach program through visits by special teams and regular public meetings with utility managers.
- The teams informed people about the proposed new law and the penalties for electricity theft and gave opportunity to obtain an authorised connection on the spot after paying connection fee. Utilities' deteriorating financial situation and the effect of electricity theft on their costs and tariffs were also explained.
- In addition, teams held consultations with labour unions about the proposed legal provisions for making collusion by utility staff a criminal offense.

Providing Adequate Resources

Adequate funds were provided for the initiative, which helped to sustain the momentum and credibility of the change.

- **High-quality metering:** High-accuracy meters were installed for high-value customers, and the old meters recalibrated and installed for low-value customers.
- **Better information flows for management control:** To support energy auditing, electronic meters with data logging devices and facilities for transmitting data through satellite communications system were installed.
- **Transparency in estimating agricultural consumption:** While agricultural customers remain un-metered for socio-political reasons, meters were installed on the transformers to allow better estimation of sales to agriculture.

Building a Constituency for Change

- The campaign gave high priority to connection delays and poor customer service—two major reasons for customer dissatisfaction.
- Spot billing system was introduced to allow meter reading in the presence of customers and minimise billing complaints.

- A special cell in each operation circle was made to authorise new connections and address customer complaints, and collection centres were opened at convenient locations, including mobile collection centres in rural areas.
- Utilities also set up computerised customer care centres serving as one-stop windows for handling complaints, receiving payments, and following up on electricity supply problems.

Monitoring Results

The campaign was closely monitored, including at the highest level of the government. All district offices were linked to headquarters through the satellite network for quick transfer of data, and district administrators and engineers submitted daily reports on the connections regularised and fees collected. The information system developed to monitor the campaign was improved and integrated into the management control systems of the companies, and continues to be used for monitoring.

The Results

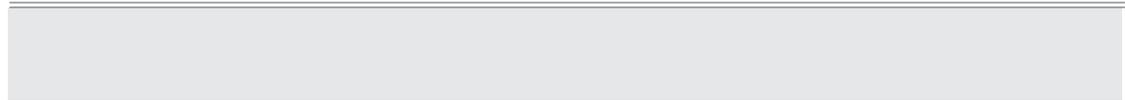
The campaign has made a big difference in the utilities' bottom line. Monthly billing has increased substantially, and the collection rate has reached more than 98 per cent. Transmission and distribution losses were reduced from around 38 per cent in 1999 to 26 per cent in 2003, in large part through theft control, with the utilities regularising 2.25 million unauthorised connections.

Supreme Court: Deterrent Punishment for Electricity Theft

Taking a tough stand on large-scale theft of electricity across the country, the Supreme Court on November 4, 2006 suggested that the Parliament and the State Assemblies amend Section 39 of the Indian Electricity Act of 1910 incorporating the punishment provision to provide for permanent blacklisting out to those caught stealing power on more than one occasion. Apart from sentencing the accused, heavy fine should be imposed so as to realise that stealing power is a 'non-profitable' proposition.

Payment of Electricity Bills in Delhi

BSES in Delhi has started installing cheque drop boxes in various colonies. These boxes are cleared daily. Besides, it has introduced 'Pay By SMS', 'Pay By Phone' and pay through 'Easy Bill' outlets.



Community Participation in Hospital Management

A. Madhya Pradesh: Rogi Kalyan Samiti (RKS)

The most prevalent maladies of hospital management in India, resulting in widespread corruption and general low quality of services, are:

- No accountability of doctors and hospital management to the users (patients).
- No sense of responsibility in the doctors and other hospital staff towards the patients.

These two problems were addressed effectively in the successful experiment of Rogi Kalyan Samitis (RKS). These Samitis were first constituted with a limited objective of preventing the spread of plague in 1994. But very soon the potential was realised and they have now been set up in all medical colleges, district hospitals, and community health centres. They have peoples' representatives, health functionaries, local district officials, leading members of the community, representatives of the Indian Medical Association, Members of the urban local bodies and Panchayati Raj Institutions as well as leading donors, as their members.

The government authorised the RKS to manage the existing facilities and assets of the concerned hospitals. RKS has been given the freedom for operations, management and investment to meet service requirements. It is empowered to mobilise resources through levy of user charges, commercial use of assets like land of the institution, donations in cash or kind from the public at large, allotments/grants from the government or non-government bodies and loans from financial institutions.

Resource Generation

Levy of User Charges

- Charges were introduced for all facilities provided in the hospital

including the outdoor patient ticket, pathological tests, indoor beds, specialised treatment, operation etc.

- The poor section of the society and other groups (for example, persons below the poverty lines, freedom fighters etc.) as determined by the Government were exempted from the levy. Identification of poor persons was fully based on self-certification.
- Charges for the general wards are nominal, while those for patients in the private wards are higher.
- Funds received from this are to be deposited with the RKS and not in the government exchequer.

Resources were also raised through donations/loans, use of surplus hospital land for commercial purposes, and management of services, like canteen in the hospital premises.

Day-to-day Management

For daily supervision and control of operations, as well as administration, hospital functioning was decentralised at departmental level. Each department was made responsible for services and resource management. The staff of the department was made responsible for its management, giving them a sense of belonging and ownership.

Impact

After the introduction of user charges, daily collection by the Rogi Kalyan Samiti ranged between Rs. 500 to Rs. 25,000 in each hospital depending on location. There was no resistance to the introduction of user charges. The income of RKSs has been consistently increasing over the years, and the hospitals have been using this money for the improvement of their infrastructure and facilities. There has also been a distinct improvement in the quality of service.

B. Chhattisgarh: Jeevandeep Samitees

- Constitute Jeevandeep Samitees to encourage effective community participation in Hospital Management.
- Determination of quality improvement standards for every level of hospitals.
- Grant of Rs. 5 lakh to District Hospital level Jeevandeep Samitees and a grant of Rs. 1 lakh to Community Health Centre level Jeevandeep Samitees under National Health Mission.
- Grant of Rs. 50,000 to Primary Health Centre level Jeevandeep Samitees.

- Provision of adequate training in hospital management to the members of Jeevandeep Samitees.
- Jeevandeep Golden, Silver and Copper Stars to encourage and introduce healthy competition among the Government Hospitals.
- Chief Minister's Prize of Rs. 2 lakh to the best Hospitals in each District.

Linking of Delhi Municipal Hospitals

The Municipal Corporation of Delhi is introducing an integrated Hospital Information System (HIS) linking all its hospitals with the help of Wipro Healthcare Ltd. Henceforth, all the hospitals would be sharing data in case a patient is referred from one hospital to another.

Chinnari (Small) Doctors

Most villages in Nizamabad district (Andhra Pradesh) lack proper health facilities. Some like Bodhan and Yedapalle do not even have a single hospital or clinic and the villagers have to either wait for the midwives from the govt.'s health facilities to visit them or travel 9-10 kms to the nearby towns. To do that, they have to wait for local buses that come to their villages once or twice a day.

To deal with such an emergent situation, 'Plan India', an NGO, selects children in the age group of 8-14 from such villages and gave them training about dealing with small medical emergencies. They are made to undergo at least four training camps and then taken to government hospitals for first hand experience in dealing with such medical emergencies. They carry a first aid kit containing an antiseptic cream, ointment, nail cutter, hydrogen peroxide, cotton, bandage, scissor and some tablets to enable them to handle minor health emergencies and providing first aid. These children also meet health workers regularly to update themselves about the latest medical issues. They are also spreading awareness on how the early marriage affects a girl's health. As a result, villagers not only listen to these children, but encourages and inspires them towards social service ("Teen doctors take charge in villages", by S. Shanti, *Times of India*, dated Nov. 4, 2007).

Rural Kiosk Project

This project, developed by Prof. Ashok Jhunjunwala (IIT, Chennai), is used not only for e-mail, but functions as a vibrant telemedicine project as well. The villagers coming in with diseased animals, spoilt crop, etc., get their pictures with a webcam (with a wire to take it outside the kiosk if needed) transmitted to a centre in the city/state (such as a medical centre or an agriculture university), and then get expert advice on what to do.

Tele-medicine

Another similar project is the tele-medicine project in Midnapore, which is increasingly emerging as an important tool in realising President Kalam's dream project PURA—Providing Urban Facilities in Rural Areas. It is not just about getting a Hawkins doctor to give his opinion on a complicated medical case in Delhi—it is also about some 100,000 villagers in Arogonda and neighbouring Andhra villages getting free OPD services from Apollo Hospital. According to Dr. Anupam Sibal, Group Medical Director, Indraprastha Apollo, the Aragonda project is a 'rudimentary health insurance scheme.' Participants in the scheme pay one rupee a day, and in return, patients from the village and neighbouring ones get free OPD services, including tele-consultation and even in-patient care in the secondary health centre there. Any bill up to Rs. 30,000 is waived off.

An example can also be cited of a tuberculosis patient in Guwahati. He had started bleeding in the lungs because of the disease. After his conditions could be stabilised with the advice from an AIIMS doctor, he was flown to Delhi for the complicated surgery.

The success of the telemedicine project has been that 87 per cent of the patients, who consulted, ended up getting treated by local doctors themselves. Apollo has 80 telemedicine centres across the country. AIIMS has 30, covering far-flung areas like the Andamans, Jammu, Leh, Srinagar, Uri and the North-East.

According to Dr. Aarti Vij of the AIIMS, a 60-bedded hospital in Ballabghargh (Haryana), started in July 2005 as a part of the rural outreach programme, too has seen very good response from the local community. Resident doctors of the Institute are posted in this hospital by rotation. For consulting any specialist, the patient, through the treating doctor, has to set up a tele-medicine appointment. There is also a facility for real time consultations, with the specialists sitting in Delhi, 'conducting' diagnostic examinations through the general physician at the Centre. Cardio and neuro-radiology reports are also often sent to doctors through the internet for second opinion. The AIIMS also organises CME workshops through tele-conferencing.

The Telemedicine project of Tamil Nadu allows doctors in remote areas to consult experts on special cases or for referral purposes through a direct ISDN link.

Formulation of Citizens' Charters

After going through a number of Citizens' Charters, TI India has prepared suggestive Model Citizens' Charters, according to type of services various hospitals provide to public, to enable them to adopt it according

to their circumstances. Accordingly, separate charters have been developed on General Information, Casualty and Emergency Services, Enquiry and Other Information, Out-Patient Department (OPD) Services, Diagnostic Services, Indoor Services (General/Private Wards) and Mortuary. These should be finalised after having a detailed discussion with the concerned service providers, service seekers and the genuine NGOs representing the concerned citizens and services.

Mention and Prominently Display

- Details of nearest PCOs/STDs, public utilities like toilets, waiting area with tea/coffee/snacks, attendants' waiting hall, parking facilities, etc.
- Guide maps, display boards/indicators to be prominently installed at various strategic locations.
- Places and conditions attached to facilities like wheel chairs and patient statures.
- Facilities available to senior citizens and physically disabled patients.
- For poor & BPL patients: Procedure and documents required to obtain free treatment, drugs or financial assistance.
- Facilities, fees payable for various consultations, tests and medical services to beneficiaries of CGHS, ESI, medically insured patients and other similar categories and documents required.
- Place and timings of the availability of Social Guides and Medico Social Workers for assisting poor and indigent patients (including providing financial help).
- If promised services are not provided as per specified standard and time schedule, an effective grievance redress mechanism (including the provision of compensation on the pattern of the Central 'Right to Information Act-2005' to the concerned citizen in order to introduce accountability) should be mentioned.
- Name, location, tel. no., days/timings, fees, etc. for issue of medical fitness and other certificates.
- Facilities available to senior citizens and physically disabled patients.
- Specify if OPDs have facilities like waiting hall with chairs, STD booth, TVs, lifts, ramp for ortho, public utilities like drinking water & toilets etc.
- Mention about Visitors' Meeting Hours, and Vehicle Parking facility.
- Timings and location of canteen and grocery shop, medical stores, book shops, general store and STD booths.

- Instructions for consultation in Specialty and Super-specialty clinics, whether one needs to have referred from OPD or a Doctor.
- Conditions like fees, investigations and documents required, etc. to avail the particular facilities.
- Whether the hospital charges can be waived off in respect of poor and costly drugs/surgical items can also be provided to them by the hospital. If financial assistance is also available through Prime Minister's Relief Fund, NIAF and other such funds.
- All procedures, operations etc. and if the patient is required to contact the Medical Superintendent Office for admission in Private Wards, and other formalities, hospitalisation and other charges (including doctors visit fee, investigation like USG, CT, MRI etc., diet etc.).
- Facilities available to senior citizens and physically disabled patients.

If promised services are not provided as per specified standards and time schedule, an effective grievance redress mechanism (including the provision of compensation on the pattern of the Central 'Right to Information Act-2005 'to the concerned citizen in order to introduce accountability) should be mentioned.

Grievance Redressal Services

A. Contact Person's Name

Location

Tel No. (Office) (Res.)

Timings

B. Alternate Person's Name

Location

Tel No. (Office) (Res.)

Timings

Citizen Charter

(Name of Hospital)

(Please fill in the following Chart and mention the website ID.
This may please be displayed prominently outside each Hospital)

GENERAL INFORMATION

Website : <http://www.>

LOCATION

- Hospital's Address _____
- Main entrance is on _____ (Name of well known landmark)

NUMBER OF BEDS, DOCTORS, NURSES ETC.

- The hospital has a total of _____ beds.
(Emergency _____ beds, General Wards _____ beds & Private wards _____ beds.)
- _____ Doctors (incl. Faculty members, Sr. and Jr. Residents) and _____ Nurses.

CASUALTY AND EMERGENCY SERVICES

- Casualty Tel. Nos. _____ (timings).
- Exact Location & Tel No. of Casualty Ward: _____ .
- Mention if ambulance facility is available to transfer patients or meet any exigency/disaster situation.
- Mention if ambulance facility is available to transfer patients or meet any exigency/disaster situation.
- Specify the details of facilities in Casualty for major specialties i.e. Medicine, Surgery, Orthopedics & Pediatrics, etc. available to attend serious patients and required fees etc.)
- Mention if Casualty is equipped with the Emergency Operation Theatre or with modern gadgets like monitors, ventilators, nebulisers, defibrillators, central O₂ and suction supply etc. for any urgent treatment.
- Mention the availability & their timings of urgent investigations like Blood Biochemistry, Urine, Blood Gas Analysis, ECG, USG, X-ray, C.T. Scan, MRI etc.
- Mention whether medicines and surgical items available in casualty are provided free of cost.
- Mention if there are arrangements for the stay of patients' attendants, its conditions like stay charges, etc.
- Mention details of PCOs/STDs, public utilities like toilets, waiting area with Tea/Coffee/ Snacks, Attendants' Waiting Hall, parking facilities, etc.

Enquiry and Other Information

(Please fill in the following Chart and mention the website ID.
This may please be displayed prominently outside the Hospital/Enquiry Office)

(As on date _____)

Offices/Details of wards	Location (Land Marks)	Tel No. with Ext.	Days	Timings	If any problem, contact		
					Name	Tel No.	
						Off	Res.
Central Enquiry							
Registration Office/s							
Medical Supdt.							
Casualty Ward							
Gen. Ward (Specialty)							
Private Ward							
Specialty-wise ICUs							
Diagnostic Units like X-Ray, ECG, USG, MRI, C.T. Scan, etc							
Blood Bank							
Path Lab. for test of Urine, Blood, etc.							
Facilities for AIDS Patients							
Facility for Eye Donation							
Dialysis and Kidney Transplantation							
Organ Retrieval Banking Organisation							
Poison Information Centre							
Social/Medical Worker							
Chemist Shop							

Instructions for Diagnostic Services

(including Bronchoscopy, Endoscopy etc.)

(Please fill in the following Chart and mention the website ID. This may please be displayed prominently outside each Diagnostic Service)

(As on date _____)

Diagnostic Services	Location	Tel No.	Days	Timings & Waiting Period			Fee, if Any	Name of Medical Officer I/c
				Collection	Report Delivery	Waiting Period		

Note: Mention the facilities available to senior citizens and physically disabled patients.

Indoor Services (General/Private Wards)

(Please fill in the following Chart and mention the website ID.
This may be displayed prominently)

(As on date _____)

Type of Indoor Services	Location of the Ward	Tel No. of the Ward	Public Visiting Hours	Doctor's Visiting Hours		Per day Charges*		Consultant		
				Morning	Evening	Bed	Other	Name	Tel. No.	
									Off.	Res.
A. Surgical Ward										
1.										
2.										
B. Medical Ward										
1.										
2.										
C. Specialty Ward										
1.										
2.										

Mortuary Services**

(As on date _____)

(Location _____ Tel. No. _____)

A. Name of I/c:

Tel No.: (Off.) _____ (Res.) _____

B. Name of Alternate Officer:

Tel No.: (Off.) _____ (Res.) _____

Working Hours:

Documents, etc. required to Claim Body:

Legitimate claimant:

Availability of Van:

Charges of the Van's Use:

** : Dead bodies are stored in a separate Building of the hospital. When there is a Medico-legal case, the body is released only after the post-mortem clearance from the Police. While in case of natural death in the hospital ward, it is shifted to the mortuary. It can be claimed only after producing the proof of identity and the relationship with the deceased person.

Public Distribution System

Linking of Ration Shops and FCI Godowns

Using e-Governance, the government has developed a software called the 'Integrated Information System for Foodgrains Management' (IISFM). It tracks the movement of specified food articles from the godowns to the fair price/ration shops (FPS) across the country with a centralised database. It will have details of grain released by various FCI Godowns across the country and help to detect the leakages from the system. This system would stop trucks from diverting foodgrains and selling them in the open market.

Food Vouchers—Giving Users Power to Choose

The current PDS gives a monopoly to the FPS owners over a specified area. The cardholders have no choice but to go to that shop only. Instead, vouchers (or stamps) can be given to the cardholders who can exchange them for food from any shop. The shop owners can exchange the collected vouchers for cash from the administration.

This does away with the hugely inefficient government procurement, storage and distribution operations. Moreover, the resulting competition among shops to attract these stamp-bearing consumers would minimise irregularities as customers with food stamps would visit shops of their choice that did not impose illicit fees or short-change customers on either quantity or quality.

The system can effectively address the diversion of supplies and curb the losses during transportation. But the problem of identification still persists with this system.

e-Ration Cards

Under project Akshaya, the Karnataka Government's initiative, 110 lakh ration card holders are being provided with the new barcoded single sheet

containing names, age and colour photographs of all family members, a barcode number and a special ID number, which can be read only by a reader device. Along with this, the Government will also issue food coupons—2"x2" individual tickets for rice, raagi, wheat, kerosene, palmoil—that carry similar numbers to that on the ration card, the commodity name, quantity, month and the price. Each household is charged Rs. 45/- for the new ration card. And with it, it is hoped that deep rooted corruption in PDS will come to an end.

Alternative System through Community Grain Fund

Deccan Development Society (Andhra Pradesh)

The two most glaring problems in the current PDS resulting in corruption are:

- Diversion of food supplies to open markets at every point in the distribution chain.
- Identification and targeting of the needy households.

These problems were effectively handled by an experiment in alternative public distribution system, conducted by Deccan Development Society (DDS) in about 11 villages of the Medak district in Andhra Pradesh for five years.

In the programme, food grain production, procurement, storage and distribution are done at the local community (village) level and are entirely managed by the Women Sangham members (comprising mostly of *Dalit* women). Another innovation of the programme is the identification of poor households within the community through a process of participatory wealth ranking that overcomes problems of exclusion/inclusion so pervasive in Government-run PDS.

The entire programme had four stages:

- a. The first stage starts with advancing loans to the beneficiary farmers over a three-year period for various agricultural operations, starting with tractor and bullock ploughing, application of farm yard manure, sowing and weeding. The loan amount for the first year is fixed at Rs. 2,700/- per acre. Tractor ploughing is done only for the first year since soils are hard and require deep ploughing. The second and third year loan amounts are fixed at Rs. 1,000 and Rs. 500 per acre, respectively. The total investment for bringing fallow lands under cultivation for all the three years is Rs. 4,200 per acre. The task of collecting and disbursing loan amounts rests with the women committee members in each village.
- b. After the harvest, the committee members in each village are required to collect the loan repayment in the form of grain from the partner farmers. The loan repayments by the partner farmers

are spread over a five year period in the form of grain in pre-fixed quantities and prices.

- c. The grain, thus collected is stored in the village for distribution during the scarce months of monsoon season among different categories of poor, based on participatory wealth ranking. The Participatory Wealth Ranking is an innovative process of identifying various categories of poor within the village by the villagers themselves through a PRA method, overcoming the problems of inclusion/exclusion so pervasive in official calculations. The criteria for rural poverty is developed by the villagers themselves. Each household is judged on a five-point scale of poverty decided on the basis of things like acres of land owned, whether there is any physically unfit person in the household, ownership of land, etc.
- d. Households, thus identified, are issued a sorghum card by the Sangham, entitling beneficiaries under the APDS programme to a fixed quantity of *jowar* from the Community Grain Fund (CGF) at a subsidised price of Rs.3.50 per kg. The proceeds from the sale of *jowar* are deposited in a Bank as the CGF. The subsidy of one rupee, between the issue price and procurement price is made up by the interest payments, accruing from CGF Bank deposit in five years. Individual village groups hold the CGF account and the fund is used year-after-year for reclaiming more fallow lands.

Formulation of Citizens' Charters

After going through a number of Citizens' Charters, TI India has prepared suggestive Model Citizens' Charters, according to type of services various Public Distribution bodies provide to public, to enable them to adopt it according to their circumstances. Accordingly, separate Charters have been developed for the State Food & Civil Supplies Department/Corporation, District Food & Civil Supplies Department, Circle Office of Food & Civil Supplies Department, Fair Price Shop and the Kerosene Oil Depot. These should be finalised after having a detailed discussion with the concerned service providers, service seekers and the genuine NGOs representing the concerned citizens and services.

Citizens' Charter for State Food & Civil Supplies Department/Corporation

1. The entitlement of ration cardholders and the details of allotment of commodities to the District/Sub-divisions as on _____ (date) should be displayed prominently at the Entry and given due publicity (with the changes made therein).

2. Efforts should be made to introduce single form for issue of a Ration Card and other related services. Such Forms should be publicised through the Newspapers and the concerned website to enable the service seekers to get them copied and use it.
3. The norms for opening Fair Price Shop and Kerosene Oil Depot should be made public. Applications for allotment of Shop/Depot shall be duly acknowledged and replies will be given within. ———— days.
4. Specific mention should be made about penalty against Dealers for defaults in quality and weights & measurements of foodgrains.
5. Complaints about quality and weights & measurements of foodgrains can be made to the following:

A. Grievance Redress Officer's Name:

Address: _____ E-mail Id _____

Tel. No.: (O) _____ (R) _____ (Fax) _____

Visiting Days & Hours:

B. Alternate Grievance Redress Officer's Name:

Address: _____ E-mail Id _____

Tel. No.: (O) _____ (R) _____ (Fax) _____

Visiting Days & Hours:

Vigilance and Public Participation

The Department will constitute Vigilance Committees to review the functioning of the scheme periodically at Shop/*Panchayat* level, District/Area level and State/UT level associating the members from Government, social organisations, consumer organisations, local body members, etc.

On the pattern of the Central Right to Information Act 2005, a provision should be made about the compensation to the complainant if the promised standard of services has been deficient.

Training of Personnel Engaged in PDS Activities

Training programmes, including workshops, should be arranged in association with the voluntary consumer and social organisations, including youth and women organisations, in order to train the staff engaged in the delivery of PDS services. The Government should also consider suitable incentives for rewarding good work, while ensuring at the same time that lapses, if any, are dealt with severely.

Information About the Kerosene Oil Depots of the Circle

Location of Depots with Prominent Land Marks

(Please fill in the following Chart and mention the website ID.)

(Please display it outside the Circle Office)

Location of Kerosene Depots	Address (where to go)	Areas covered	Depot's Owner & Tel. No.	Depot's Registration No.	No. of Card Holders	Working Days & Hours

Grievance Redress Mechanism for any Deficiency in the Promised Standard of Services

Officer to be approached	Meeting Time	Phone Nos.		Public Information Officer		Compensation to Complainant	Remarks	
		Office	Res.	Name	Telephone			
					Off.			Res.

Citizens' Charter of Fair Price Shop

Location of Rationing Shop with prominent Land Marks

(Please fill in the following Chart and mention the website ID.)

This Charter should be displayed at a prominent location which is easily visible to the customers.

Information as on the morning of _____(Date/Month/Year) (As on date _____)

Quality-wise Commodity	Quantity in Stock	Entitlement		Rate per Kg.		Date of last Inspection	Working Days & Hours
		BPL	APL	BPL	APL		

Grievance Redress Mechanism for any deficiency in the promised standard of Services

Officer to be approached	Meeting Time	Phone Nos.		Public Information Officer		Compensation to Complainant	Remarks	
		Office	Res.	Name	Telephone			
					Off.			Res.

- Note: 1) The Shop will remain open on ____ (Day) and close on ____ (Day)
- 2) There should be a separate queue for the women, senior citizens and physically disabled card holders.
- 3) The consumer attached to the FPS will be entitled to inspect the Stock, Sales and Ration Card Registers at the FPS.
- 4) Specific mention should be made about penalty on the pattern of the Central 'Right to Information Act-2005' against Dealers for defaults in quality and weights & measurements of foodgrains.

For Suggestions/Complaints, contact:

Name: _____

Designation: _____

Address: _____ E-mail ID _____

Location (with prominent landmarks) _____

Tel. No. (Off) _____ (Res) _____ (Fax) _____

Citizens' Charter of the Kerosene Oil Depot

Location with Prominent Land Mark

(Please fill in the following Chart, mention the website ID)

This Charter should be displayed at a prominent location which is easily visible to the customers.

Information as on the morning of _____(Date/Month/Year)

Quantity in Stock	Entitlement		Rate per litre	Areas covered	Depot's owner. & Tel No	Working Days & Hours
	BPL	APL				

Grievance Redress Mechanism for any Deficiency in the Promised Standard of Services

Officer to be approached	Meeting Time	Phone Nos.		Public Information Officer			Compensation to Complainant	Remarks
		Office	Res.	Name	Telephone			
					Off.	Res.		

Note: 1) The Depot will remain open on ____ (Day) and close on ____ (Day).

2) There should be a separate queue for the women, senior citizens and physically disabled card holders.

3) Specific mention should be made about penalty on the pattern of the Central 'Right to Information Act-2005' against Dealers for defaults in quality and weights & measurements of supplies.

For Suggestions/Complaints, contact:

Name: _____

Designation: _____

Address: _____ E-mail ID _____

Location (with prominent landmarks) _____

Tel. No. (Off) _____ (Res) _____ (Fax) _____

Water Supply

Hyderabad (Andhra Pradesh): Water Supply Department

Dial A Tanker

- In the earlier scheme, anyone desirous of getting a tanker had to go through various channels like going to concerned section officer to obtain permission, 'e-seva' to pay required amount, bring back payment receipt to section office, then come again at least 2 hours in advance on the day of requirement, wait for turn, and take tanker along.
- Permission was often denied for those who were outside the Municipal area or for commercial purposes, thus resulting in clandestine dealings with staff, thereby causing a loss to the Jal Board.
- A new scheme 'Dial A Tanker' was launched for citizens of Hyderabad and Secunderabad wherein anyone who requested for tanker was provided the same within 3 hours or so.
- The Call Center runs 24 hours all through the year, registers requests and forwards them to concerned area for servicing. The request appears on Wide Area Network instantaneously. After servicing the request, the area officer feeds back the information.
- Customer's satisfaction has increased tremendously.

Instant Connection

- The earlier practice of water supply connection was that the prospective customers had to go round at least 3 levels of hierarchy to obtain the sanction. The time taken for sanction varied widely.

- Applications so received were sent to field offices for verification and feasibility which usually took more than 15 days as the file moved up and down three layers. However, it has been found that only a miniscule (4 per cent) applications were rejected (on account of verification and feasibility) while others had to wait. To alleviate these problems, a 'Single Window Cell' was opened to receive applications and to communicate sanction.
- All applicants, who had valid papers and if technically feasible, instant sanction is released within 7 days.
- This initiative resulted in reduction of response time. This cut out a lot of red tape and speed money.
- This changed behavioural attitudes of employees, making them proactive and customer-friendly.

Extension Counters and Simplification of Applications

- Central Single Window Cell was not able to take load. Therefore, extension counters were set up.
- Applications were made user-friendly by having them in three languages—Telugu, Urdu, and English.

Spot Billing

- Earlier system of bill collection had weaknesses in bill generation and delivery mechanism, thereby affecting collection of water-cess.
- In order to overcome this, spot billing was introduced.
- The scheme is now implemented in four O&M Divisions and was expected to cover the entire Board.

On-line Complaint Redress System

- Complaints can be registered and their status is known through Municipal Corporation's website.
- Depending on nature of complaint, website also provides redressal facilities.
- Prospective customer is able to check status of his application for new connection.

Kaver e-com (Bangalore)

It is a multi-utility payment kiosk of the Bangalore Water Supply and Sewerage Board (BWSSB), which can receive payments for water, electricity and telephone bills either by cash, cheque, demand draft or through a

credit card. The central control unit is attached to a 15-inch colour monitor with touch screen facility, a barcode scanner to read cheque numbers, cash acceptance module and a receipt printer. The Board was also commissioning online complaints and maintenance system to track complaints from consumers about water supply and sewerage. It can be accessed by phone or email also. It will also receive complaints routed through the Board's service stations.

26

Income Tax

e-Governance in Tax Administration

In an effort to introduce online delivery of taxpayer services, including faster processing of returns, expeditious refund of claims and quicker investigation, the Income Tax Department had engaged a software major Oracle in March, 2006. As a result, now tax returns can be filed electronically, under digital signature without documents.

However, there are two major problems in the returns filed electronically. Firstly, digital signatures are not feasible for most of the Income Tax payers. Secondly, such Tax Payers are required to visit the IT Office for submission of the verification of the Return in another form.

Outsourcing of Refunds

To streamline income tax refund to taxpayers, it has appointed State Bank of India to issue and deliver the cheques, besides refunds through Electronic Clearing System (ECS).

South Korea: Tax Reform

South Korea has taken several initiatives to simplify and increase transparency in the Income Tax administration. To some extent, the nature of problems faced by South Korea was similar to problems faced in our country. As such, the initiatives taken by South Korea are relevant to our country and can also be implemented here easily. Hence, the initiatives taken by South Korea to reform the Income Tax administration are presented below.

Objective of Reform

- Earn the trust of taxpayers.
- Fair taxation.
- Transparent tax administration.

How Was it Done?—Four-part approach

Design World-class Taxpayer Service

- Alleviating the need to visit tax offices by providing more responsive services, including IT solutions, such as the Home Tax Service, which allows all tax matters to be dealt with over the Internet.
- Weekly Newsletter with useful tax information written in Korean language is published and available *via* e-mail.
 - The National Tax Consultation Center to quickly resolve nationwide tax inquiries raised through telephone, fax, mail and e-mail on a one-stop service basis has been set up.
 - Taxpayers' Advocates have been appointed at each District Tax Office to represent taxpayers' interests and actively help them resolve unfair situations.

Reform of Tax Audit System

- Transparency and predictability of the selection process of subjects for the tax audit using a computerised method.
- Computer analysis method ensured honest taxpayers are not selected and taxevaders are identified and brought to book.
- Ratio of subjects for the tax audit to the taxpayer population has reduced.
- The subjects for the tax audit mainly included taxpayers whose returns are evaluated as inaccurate or dishonest through the computer analysis.
- Tax audit policy and selection criteria (for scrutiny) are announced in advance to increase transparency of tax audit system and to relieve taxpayers' anxieties.
- Service unit is separated from the investigation unit within the tax audit department so that system of checks and balances could be in operation.
- The Centre would protect taxpayers' rights during the audit process and minimise arbitrary tax assessments by tax inspectors.
- The Special Tax Investigation that was a major source of taxpayer complaints has been abolished. Instead, taxpayers are classified and treated differently according to their level of tax compliance. In this way, honest taxpayers receive preferential treatment, while

those who commit minor offences are normally audited, and those who deliberately evade taxes are subject to criminal tax investigation and strict punishment.

- The Real Name Taxation System is introduced to reinforce internal regulations so that unreasonable and arbitrary tax assessment could occur.
- Tax collections records of each audit are accumulated and analysed according to the tax inspector's name.

Making Tax Administration More Transparent and Trustworthy

- Any lobbying for obvious tax evasion, through personal connections or unofficial channels, is no longer accepted.
- Anyone who offers a bribe is subjected to intensive tax investigation.

Establish a Tax Culture where Taxes are Willingly Paid

- Acknowledging honest taxpayers, through introduction of Exemplary Taxpayers' Award.
- Once selected as Exemplary Taxpayers, they would receive preferential treatment through various benefits such as a 3-year exemption from tax audit, and VIP client status at financial institutions.
- In addition, a Tax Point System has been introduced to give taxpayers various benefits relative to the amount of tax that they had paid.
- Expanding citizens' awareness of the immoral and criminal aspects of tax evasion achieved the results.
- In an obvious case of tax evasion through fictitious transactions, profit manipulation, transfer pricing, or tax haven, it is subjected to intensive tax investigation by a strict application of the law.

Municipal Services

Vishakhapatnam (Andhra Pradesh): “Saukaryam”—An e-Governance Initiative

Vishakhapatnam Municipality has introduced an online information service to enable residents of Vishakhapatnam to make their payments for municipal services at select banks in the city. It also allows them to file complaints, and check status of various projects being taken up by the Municipality.

- Website is designed through which citizens could access information about Municipality.
- Facilitated online registration of complaints, tax payment and many more services. As an alternative, City Civic Centres have also been set up in the city (Similar Citizen Service Bureaus have been set up by the Delhi Municipal Corporation).
- Property Tax dues along with birth and death certificates can be obtained instantaneously.
- Citizens can check status of their building approval applications online.
- Citizens can track status of their complaints and grievances through Internet or by visiting the Civic Centre.
- It also gives online information as to how the property tax liability is arrived at, related procedures and government building rules and regulations, etc.
- The website is linked to the Municipality internet, which enables Municipal officials to access official information from anywhere.

Outcomes

- Saukaryam scheme has enabled municipality to know on real time, demand and collection of ward-wise Municipal dues.

- The information database helped in monitoring large number of pending files and to prevent delinquents to escape.
- As the system also provides an automatic posting of penal interests for delayed payments, the discretion of tax collectors in waving such amounts gets eliminated. This improved tax collection efficiency.
- The Citizens' Forum acts as a virtual meeting place for the citizens who are freely airing their views for the city development. Many call centres catering to project are coming up, which reflects popularity of system.

Bangalore Mahanagara Palike (Karnataka): Innovations in Municipal Budgeting and Financial Management

Bangalore Mahanagara Palike (BMP) implemented the following two important initiatives to simplify the procedures and processes for assessment of property taxes:

- **Self-Assessment Scheme (SAS)** aims at making the process of payment of property taxes more transparent, easy and simple.
 - SAS is area-based system of property taxation which replaces the earlier system based on annual rental value of properties.
 - BMP brought a comprehensive booklet explaining the tax computation procedure with extreme clarity. Amendments in Municipality Act required BMP to follow new self-assessment scheme based on capital value of properties, one of the most progressive systems.
- **Saral Khata Scheme (SKS):**
 - *Khata* is an account of assessment of a property, recording details such as size, location and built-up area for the purpose of property tax.
 - It is an important document for all property owners as it is required for many transactions such as obtaining trade licenses, bank loans, etc.
 - The scheme considerably simplified the process of applying for a *khata*.
 - Issuing an Information booklet to explain the procedure in a transparent and clear manner.
 - Reducing the number of documents required for obtaining a *khata*.

- Simplifying the application forms.
- Transparent rates of taxation.
- Issue *khata*s within a specified time schedule.

Impact

- Impact of Self-Assessment: Out of 4 lakh property owners in the city, 2.3 lakh opted for the SAS in the first year. Subsequently, another 60,000 have also opted this facility.
- Impact of Saral Khata Scheme: BMP officials have claimed that response has been very good. In 2002-03, about 2000 *khata* booklets were sold.
- Impact on property tax collection: The BMP's property tax collection showed a significant increase in 2000-01 over the previous year. This was mostly the effect of the Self Assessment Scheme. Growth trend of BMP's property tax revenues has doubled over a period of five years.

Gujarat: e-Nagarpalika Project

On its successful implementation in Vejalpur Nagarpalika in Ahmedabad District, it has now being replicated in all the Municipalities of Gujarat. It provides online services like Registration of Births & Deaths, Property Tax billing & collection, trade licenses, Water Supply billing & collection, Tenders, Solid Waste Management, Complaints, Public Grievances, Accounts, Payroll, Infrastructure details, and Self Assessment Scheme. Further information can be had from slo@ap.nic.in.

Indore Municipality: Increasing Municipal Revenues

- Taxpayers provide information about their property, such as location, size, age, and use, into a formula-based programme that calculates what they owe. They also help citizens to understand how their taxes are calculated.
- IMC decentralised collections by introducing cash collection counters in 11 zonal offices and strengthened collection by staff in the field.
- People-friendly collection systems helped motivate citizens to pay taxes.
- City officials also engaged citizens through e-governance. In addition to viewing the city's website, citizens could submit questions, suggestions and grievances and receive responses *via* e-mail.

- Revenue collection increased due to simplified and more equitable assessments, better administration, increased coverage and billing, and more efficient collections and enforcement.

KDMC Maharashtra

There have been several success stories in e-governance projects that can be looked at and replicated today, such as Andhra Pradesh's e-Seva or Maharashtra's KDMC computerisation projects. The replication of these models all over Maharashtra will make it easier to integrate the e-governance framework, resulting in a more efficient government body. Further, citizen's expectations from e-governance must be taken into account and acted upon. Citizen Facilitation Center in Kalyan Dombivli Municipal Corporation (KDMC) is slated for replication all over Maharashtra and New Delhi.

Other Municipalities

Besides, various other cities have adopted different models to improve their working and efficiency. Mention can be made of Delhi for Bhagidari (people's partnership). Meanwhile, the Union Urban Development Ministry has asked the National Capital Region (NCR) Planning Board to coordinate with the Governments of UP, Haryana and Rajasthan and their 150 civic bodies to take e-governance and taxation reforms for improving overall work culture and bringing about transparency in their functioning so that people on the Capital outskirts get better services and migration to Delhi slackens. It will cover eight services and management functions, including payment of property tax and other utility bills.

Information on Public Services

The Chandigarh Administration has introduced e-Sampark to provide information relating to services on mobile phones. Initially, it would provide information relating to Bills by SMS on No. 8888.

Rural Development

With more than three-fourths of the population living in rural areas, NIC introduced IT to facilitate planning, monitoring and exchange of information among various rural development administration. Among them, eVIKAS is a nodal touch screen based project which provides an interactive platform about various rural development schemes/programmes being implemented by the Una District Rural Development Agency to bring the entire spectrum under a common ambit of Information Technology. Further information can be had from sio-hp@nic.in.

The Warana project of NIC in Maharashtra has set up facilitation booths to provide information about employment and agricultural schemes and government procedures, automated assistance in completing applications for government documents such as ration cards and birth and death certificates, information on crops, bus & railway services, medical facilities, water supply details etc.

Similarly, the Gyandoot (knowledge messenger) of Dhar district in Madhya Pradesh is a computer network connecting rural cyber cafés. It caters to the everyday needs of the masses in providing information and transacting services relating to Commodity/Mandi Marketing Information System, Income Certificate, Domicile Certificate (*mool niwasi*), Caste Certificate, Landholder's passbook of land rights and loans (*Bhoo adhikar evam rin pustika*), Rural Hindi e-mail, Public Grievance Redressal (*Shikayat Nivaran*), Forms of various Government Schemes, Below Poverty Line family list, Employment news, rural matrimonial (*Vivah Sambandh*), etc. It also provides information regarding rates of grains and vegetables, and dispenses land records. Gyandoot won the Stockholm Challenge IT Award 2000.

Land Records and Online Property Registration

Land records are of great importance to contemporary socioeconomic imperatives. At present, more than 20 registers are being maintained by the

Revenue Department. Their number varies from State to State. To remove the problems inherent in the manual system of maintenance and updation of land records, a scheme of computerisation of land records was started in 1988-89 and reviewed in 1993-94. Important software in use are Bhoomi, Kaveri, Tamil Nilam, e-Dharni, Bhuyan, Apna Khata, e-Dhara, Bhumi, and Himbhoomi.

Kaveri (Karnataka Valuation and e-Registration) Project

Karnataka's first public-private e-governance initiative for the stamps and registration department is connected to the Bhoomi project (online land registration), so that land records too can be accessed from the sub-registrars office instead of having to go to *taluk* offices because it involved the computerisation of 202 sub-registrar offices in Karnataka. Thus, it can help in cutting down time spent on paperwork relating to property registration from 45 days to half an hour, and have instant access to valuation documents, encumbrance certificates and other documents related to land records. Moreover, the computerised process will ensure authenticity of transactions, safeguarding the citizen's interests against fraud. It also allows registration of marriages, societies and firms.

Its software has been provided by the Pune-based C-DAC, while CMS Computers Ltd (AP government's e-seva service provider) and Electronics Corporation of India Ltd (ECIL) are the service providers for hardware, supporting software and maintenance. The project is based on Build-Operate-Transfer (BOT) basis for a period of five years.

An Introduction to 'Bhoomi'

- This project for online delivery of land records in Karnataka shows that making available government services to citizens in a transparent and efficient manner can empower them to challenge corrupt and arbitrary bureaucratic action. Under this project, all land records of 67 lakh landowners in 176 *taluks* of Karnataka have been computerised. Its highlights are:
- Fully online system to carry out mutations on land records data.
- Finger print biometrics authentication to ensure foolproof authentication system and to enforce the concept of non-repudiation.
- Facility to scan the field mutation order passed by revenue authorities and the notice served on the public.
- Land record centre in each *taluk* office for public interface.
- Synchronisation of the regular fieldwork done by Village Accountants and Revenue Inspector. Provision for interfacing of Touch Screen Kiosk at *taluk* office.

- 'First in, First out' mutation process thereby eliminating any favourism.

Situation Prior to Introduction of Bhoomi—Problems of Manual System

- **Opaque System:** Due to monopoly of Village Record-keeper over these records, these were not easily accessible to public.
- **Prone to Manipulations:** There were large number of instances where Government land was being shown in the name of private parties.
- **Harassment and Extortion:** Bribes had to be paid to make copies of land records available and also make changes in land title.
- **Delay in Delivery of Land Records:** Normally, delivery of land records used to take up to 30 days.
- **Cumbersome Mutation Process:** Application was given to village officials who enjoyed discretion in processing it. Lack of any monitoring mechanism made farmers amenable to pressures from the Department. Moreover, even where Accountants were law-abiding, oversight and accuracy suffered as the number of records multiplied over generations and Accountant Supervisors were burdened with numerous other regulatory and development tasks.
- **Cumbersome Crop Loan Mechanism:** Banks often asked various land records before lending crop loans to farmers. Farmers, in turn, had to hunt village officials with no guarantee that banks would not ask for any more records. This resulted in delayed crop loan process and harassment to farmers.
- **Delay in Disposal of Civil Litigations:** The Courts often required various land records for disposing land litigations (which formed more than 70 per cent of total litigations). Records were not forthcoming from Village Accountants easily—resulting into delay in disposal of civil litigations. Farmers had to often spend more than 5-10 years for disposal of their land litigations in the absence of these records.

Benefits to Farmers

- Farmers get their land records quickly from Kiosks and are protected from harassment and extortion.
- As against the normal time delay of up to 30 days, they now get their records in less than 2 minutes.
- No overhead cost incurred other than nominal charges. No application is required to be submitted at the Kiosk.

- The records are authentic and legible. Use of biometrics authentication system for updation of records have freed farmers from the worry of probable manipulation of their records
- They can lodge application for mutation (change in land title) of their land records at the mutation Kiosks get acknowledgement for the same and can monitor the progress using touch screen Kiosks available in some Bhoomi centers.
- As against earlier time of 70-200 days, mutation now requires less than 35 days. Access to farm credit is less cumbersome. Online connectivity to banks ensures farm credit to farmers in less than 5 days as against 25-30 days in manual system.
- Easier for the farmers to pursue land related litigation in the court.

Benefits to Administration and Others

- Easy maintenance and updation of land records. In the past, land records updation used to get delayed by as long as two years in some cases. Now, it would always be in sync with time.
- Provides support for development programmes based on land utilisation data like various crops grown, fertilisers used etc. to various Departments. Such data in earlier system used to be available only after 2-3 years. It is now available almost immediately.
- Accurate and timely preparation of annual revenue records etc.
- Monitoring of Government lands and prevention of their encroachments. Lack of monitoring had cost a reported loss of Rs.25 billion to State Government by way of officials tampering with records.

Benefits to Judicial Administration

- Courts would be able to make use of land record database for adjudicating various civil disputes related to ownership, possession and cultivation in various courts.

Benefits to Financial Institutions

- Online connectivity to financial institutions would help banks in planning for their farm credit related activities. In manual system, they worked on two years' old data or just guessed the farm sector requirement.
- Online connectivity would also help banks to ensure that revenue administration is indicating bank's charge on land records of such farmers who have availed crop loans.

- Facilitates creating change on land of those farmers who take crop loans.

In brief, the above features helped in bringing total transparency in land records administration with added advantage of security and reliability.

*Computer-aided Administration of
Registration Department (CARD)*

This system is designed to eliminate the maladies affecting the conventional registration system by introducing electronic delivery of all registration services. CARD was initiated to meet the following key objectives:

- Demystify the registration process.
- Bring speed, efficiency, consistency and reliability.
- Substantially improve the citizen interface.

These goals were to be achieved by:

- Introducing a transparent system of valuation of properties, easily accessible to citizens.
- Replacing the manual system of copying and filing of documents with a sophisticated document management system using imaging technology.
- Replacing the manual system of indexing, accounting and reporting through the introduction of electronic document writing.

Since 60 per cent of the documents and certified copies relate to agricultural properties, the success of the CARD project would greatly benefit the rural farming community. Agriculturists would also benefit from a possible linkup of the CARD network with the rural bank network, which would enhance the efficiencies of the rural credit services by eliminating the need for paper-based procedures.

SARITA (Stamp and Registration with Information Technology Application)

It is a stamp and registration software of Maharashtra. It has the following important features:

- Registration of 67 different types of documents as mandated by the Government.
- Comprehensive software simultaneously deployed at 360 sites networked.
- Document is registered with all relevant parameters and delivered in less than 30 minutes assured to the public.

- Error free registration with on-line monitoring and document encryption with photograph and thumb impression of seller, buyer, and consentor.
- Product in a shrink wrapped form for easy replication and administration at sites.
- Registration-valuation, scan-archive, network and process monitoring modules integration.

This application has presented itself as a win-win solution for the government, industry and public. It has drastically reduced time for registration from several days/week to an assured 30 minutes with penalties for delay, and reduce subjectivity on part of Government officials and reduce hassles in a conventional registration.

HALRIS (Haryana Land Records Information System)

A work flow based solution, has been integrated with HARIS (Haryana Registration Information System). This project is expected to bring efficiency, transparency and accountability in the management of Land Records by significantly reducing workload and delivery. Now, the administration has introduced online 'Nakal Seva' as part of HALRIS to help the authorities in speedy processing of the landowners' requests for Records of Rights.

TAMIL NILAM (Tamilnadu)

This scheme is of Computerisation of Land Records Programme (CLR) christened as TAMIL NILAM. It envisages on-line issue of Computerised extract (ROR) of land records and on-line mutation. Besides, the public can access information on details of Old Age Pension/Destitute Pension, details of guideline values and obtain birth and death certificates, etc.,

Dharitree (Assam)

It is the first web technology-based land records computerisation project in the country.

Replication Projects

It is a club of six essential projects (such as Bhoomi in Karnataka and Sarita in Mumbai) of record/property registration organised by the Department of Information Technology (DIT) to assimilate the learning of various projects. Computerisation of land records in Hoogli (West Bengal) and Uttarakhand are other examples. Attempts are being made to replicate some of them in the specific areas of land records, property registration and transportation.

Initiatives to Improve Rural Governance

Suwidha Centres in Rural Punjab

They are providing a single window for 24 services in 120 flavours. These include all kinds of licenses, certificates, passports, approvals, pension cases and ration cards etc. There are 18 Suwidha centers—one each for every district in Punjab. These are now planned to be rolled out to 72 sub-divisions. Most of these services that used to take days earlier are now available in a matter of hours.

Rural e-Seva Project (West Godavari belt of Andhra Pradesh)

It began just as a facilitation centre to allow citizens to get their income and other certificates in one place. Now, it is used to pay bills, to allow children to get computer-enabled education; people are even selling traditional products like lace through the system. The most interesting point is that while utility bill payments were being made through the system, the users of it even bid to become meter readers and won the tender. The original project began with 46 such centres and has scaled to over 200 centers. Women's self help groups are using it to promote Lace—a local cottage industry.

The Citizen Information Centre (CIC)

Citizen Information Centre in remote villages of South Sikkim, is a window for the residents to the outside world. From examination results, to downloading all kinds of government forms, looking for jobs, Internet banking and commodity prices, the citizens are finding good value in the service. There are 40 such centres spread over the state.

Community Information Centre (CIC) Assam

Under this project, all the 487 Development Blocks (including 219 in Assam and 14 in Sonitpur District) of North Eastern States and Sikkim are connected through internet for rapid, socio-economic development. It aims to achieve the following objectives:

- 1) Awareness about Information Technology among local people
- 2) Computer Training Programmes
- 3) Web Access and Internet Services such as e-Mail
- 4) Information & Communication Tech (ICT) infrastructure at Block level
- 5) Access to socio-economic databases
- 6) e-Governance applications, Government to citizen (Citizen Centric) Services

- 7) To provide information on weather
- 8) To provide information regarding Public Distribution System (PDS)
- 9) Market access, price of agricultural products and e-Commerce
- 10) To provide information on Tender Notification
- 11) e-Employment notification and employment opportunities
- 12) Examination Results
- 13) Appointment for various medical facilities
- 14) Case list of the courts
- 15) Public Grievance through web, etc.

It is proposed to use the Information & Communication Tech (ICT) infrastructure for e-Entertainment in future. A select bouquet channels could be telecast through the VSAT based networks with other existing associated infrastructure. Other prospects are the provision of connectivity to Schools, Hospitals and Post Offices. Thus, CIC will bring the region closer to the National/Global Mainstream by enabling more efficient and faster information among the locals.

Wadi (Small Orchard) Project in South Gujarat and Maharashtra

It is a successful intervention in sustainable tribal development based on an agri-horti-forestry-food processing. As a result, the landless labourers are today orchard owners and there is a new impetus to women empowerment through self-help groups, capacity building and activities like dairy farming and nursery development.

e-Panchayat (Andhra Pradesh)

Probably, Guntur is the first district to have the e-Panchayat connectivity, envisaging networking of all *panchayats* to help the people living in rural areas. As a result, details of village-wise information like population, educational facilities, land use pattern, etc. can be put up on the Net, villagers can now be issued birth/death certificates, and download latest government circulars and orders at the village *panchayat* itself. It would also provide employment to many youths. There is another e-Panchayat project of the Union Ministry of Panchayati Raj.

Kisan Call Centres (KCC) at Chennai, Bangalore and Kochi

Toll Free Telephone Calls (Dial: 1551 for all over India) are now available on agriculture related queries through Kisan Call Centers. The Coconut Development Board is its Nodal Agency in 12 locations in the country. Its objective is to leverage the extensive telecom infrastructure

available in the country to develop extension services. The farmer will get answer through queries related to farming sector in local language from the experts of Agriculture/Horticulture Departments, State Agricultural Universities, ICAR institutions etc.

The state of Kerala and Union Territory of Lakshadweep are under the KCC at Kochi, the state of Karnataka is under Bangalore KCC and the state of Tamil Nadu and Union Territories of Puducherry and Andaman & Nicobar Islands are under the Chennai KCC. The Coconut Development Board through its headquarters and field level officers will coordinate and monitor the functioning of the call centres. Other Links of KCC are:

<http://agricoop.nic.in/PolicyIncentives/kisanCallDetail.htm>

<http://www.tcil-india.com/brochures/kisan/kisan.htm#>

ASHA

It is the Assam government's small farmers' agribusiness consortium. It has been implemented to provide ICT (Information & Communication Technology) support to rural cultivators.

Other e-Governance Solutions

Besides, there have been various e-Governance solutions in rural development domain. These include:

Ministry of Rural Development: *<http://www.rural.nic.in>*

- "Daily": promoting G2E governance, an easy, efficient and one-stop access to all information and services required for day-to-day work.
- *<http://ddws.nic.in>*: Monitoring software for drinking water supply.
- *<http://ruralsoft.nic.in>*: Monitoring the monthly progress of various poverty alleviation schemes.

'e-Administration' (e-Admn)

e-Admn is a web enabled neutral platform. It was communication for sustainable development and is a collaboration tool for workflow and document management. It has been recommended by a Technical Committee appointed by ELCOT, consisting of Deputy Director General, National Informatics Centre, Chennai, a Professor of Anna University, a Senior Systems Engineer, IIT Madras and GM (e-Gov), ELCOT, as members, after comparing with other tools, based on trials conducted by ELCOT, for promotion and adoption of e-Governance practices by the Government.

It complies with Tottenham System of Office Administration, adopted by Government offices. It is developed using open source tools such as Java,

Jboss application server, and PGSQL backend, all running on Linux platform with Struts framework and CSS; and Java Coding Standard compliant for easy migration to Open Standards. It can ensure high Productivity, Quality, Maintainability and Understandability; and the total cost of ownership would be lower over long periods of time. Hence, it is an ideal tool for adoption of e-Office by communities, government organisations, corporate, civil society organisations, etc. e-Admn has the following features:

An Organisation Module:

1. Departments.
2. Positions.
3. Employees.

An External Communication Registration Module to:

1. Create electronic inward letter.
2. Attach scanned letter.
3. Select contact name from list.
4. Forward scanned inward letter to concerned officer/section.

An Internal Communication Module to:

1. Create electronic file.
2. Link inward letter to file.
3. Initiate note file and send to superior/peer/subordinate.
4. Attach Draft For Approval letter, if required.
5. View initiated/received/sent files for self/subordinates.
6. Add file notings and send to next authority.
7. Seek comments from multiple users.
8. Set lie-over/close status with dates.
9. Create Data Bank and attach to files.

e-PRI Mission Mode Project

The National e-Governance Action Plan (NeGP) includes e-Governance in *Panchayats* as a Mission Mode Project (MMP). The major activities envisaged in the MMP are:

- information and service need assessment,
- business process reengineering,
- hardware and system software,

- connectivity,
- application software,
- capacity building,
- content management, and
- service delivery.

The query on e-Governance initiatives in *Panchayats*, seeking information on improved governance systems relating to powers devolved to *panchayats* and internal office and accounts management of Panchayati Raj Institutions (PRIs), elicited enthusiastic response from members. They shared their experiences and cited examples about various e-governance initiatives in PRIs, and highlighted constraints in the implementation of such initiatives as well as issues relating to connectivity at the lower tiers of *Panchayats*.

Roles and Responsibilities of PRIs

Experiences of many states showed that e-Governance initiatives empower citizens by bringing transparency and accountability in local governance by ensuring free flow of information, better service delivery management and reduction in direct interface of the public with local officials. For instance, Central Ministries have also developed ICT-enabled tools having application at *Panchayat* level. Some of these are:

- Poverty Alleviation (Rural Soft): Software to monitor the progress of Rural Development Schemes.
- Rural Product Marketing (Rural Bazaar): An e-commerce site to showcase and market rural products.
- Agriculture Market Prices (AGMARKNET): A web-based portal to disseminate *mandi* prices, and
- Rural Employment (NREGA).

Karnataka

- **Computerisation in Belandur Gram Panchayat:** Computerisation of the Belandur *Gram Panchayat* has helped it in maintaining its accountability and transparency. The administration has become more people-friendly and information availability to the citizens has been enhanced.
- **Aasthi:** Its important features are: Property Tax Management System, Samanya Mahiti—general information on village amenities and Aashraya—Housing Schemes Monitoring System. This initiative is implemented through Rural Digital Services and all information is

in Kannada.

Andhra Pradesh

- **E-Panchayat:** This initiative is being piloted in 24 districts of AP. It provides services to the rural folk in birth/death registration, house tax, trade licenses, works monitoring, disbursement of pensions and accounting. It has improved operational efficiency of *Panchayats* and increased revenue base for local bodies.
- **Telecentres and Hybrid model to reach lower levels and solve connectivity problems:** Already established telecentres are Warana, MSSRF, CICs, Akshaya, ITC e-Choupal, TaraHaat, Dristi, Saksham, OKN, AISECT etc. Besides, 100,000 Common Service Centres, to be set up under NeGP, could function as front-end for information and service delivery centres of *Panchayats*. Telecom companies like BSNL have been expanding their networks to improve connectivity in rural areas and hybrid models are being used to reduce dependence on connectivity.

Puducherry

- **Single Window Clearance System:** Open standard components have been used in this system, connecting various government departments and Municipalities and *Panchayats*. The initiative has great scope for connecting the three tiers of *Panchayats*, reducing service delivery time and tracking information at every level.

Kerala: Modernising Government Programme (MGP)

- **Hospital Kiosks:** This project is one of major initiatives to improve service delivery in all areas in Kerala. It facilitates online civil registration of vital events, such as births and deaths in the hospitals.
- **Programme Performance Monitoring System:** It is the state-wide online monitoring system for the service delivery initiatives, including project formulation with budgeting upto individual activity level, performance monitoring alerts, budgeting, funds tracking down to the voucher level and many more actions.

Goa

- **InfoGram:** InfoGram is a comprehensive IT Solution, covering all activities in the Village *Panchayats*. It has been implemented in five Village *Panchayats* in Goa. The modules cover services pertaining to registration of births, deaths; maintain payment details and budget

entries, data on house and light tax, trade licenses, electricity connection etc.

Gujarat

- **e-Gram Initiative:** This is an initiative wherein citizens are provided birth/death, agriculture, income, electricity and caste certificates, as well demand and collection management of *Panchayat* and revenue taxes.

Madhya Pradesh

- **Panchlekha Accounting System:** It is under pilot implementation in Bhopal and Sehore districts. It allows data entry from *Gram Panchayat* and supports voucher level entries, and generates CAG Reports. It captures inventory of assets, roads, land and stock and ICT infrastructure up to the block level.

Orissa

- **PRIASoft:** Implemented in 30 district *panchayats* and 314 intermediate *panchayats*. It is a web-based accounting software for entering receipts and expenditure details of *panchayats* at all three levels. In this system, the data entry can be done at any or all the three tiers of *panchayats*, and web-based reports are generated at all the three tiers of *panchayats*.
- **e-Governance in PRIs:** Government of Orissa has declared PRIs as public authorities required to maintain all records and documents as a part of *suo moto* disclosure of information to the people. Computerisation of *Panchayat* records as a follow up to these Government Directives would help put this information in public domain.
- **ICT Kiosks at Block level:** Government of Orissa and UNDP set up ICT kiosks at block level resource centres and at *gram panchayat* level. An impact study of these Kiosks revealed that this initiative has enhanced information dissemination on important data related to the block. It has also helped in capacity building of PRI members, particularly about information exchange at *panchayat* level.

West Bengal

- **Dristi:** The project focuses on 50 GPs, and is sponsored by UNDP/ National Institute of Smart Governance. It provides computer and communication facilities, and has achieved internal automation in funds management.

Constraints in Effective e-Governance

- Lack of political will and hesitation of administration in introducing transparency in *Panchayats* and local governance.
- Lack of trained manpower for data management and operation of computers.
- Inadequate infrastructure at the *Panchayat* level—lack of separate and self-owned buildings of *Panchayats*, irregular power supply, and poor connectivity at the GP level.
- Lack of inadequate base data on available resources at the local level to create a computerised database.
- Too much focus on technology in many cases, as opposed to focus on the needs of people, acts as a deterrent to the acceptance of e-Governance schemes.

Suggestions for Implementing e-Governance

- Training of PRI members in the use of IT tools and creation of a centralised database for better management of information.
- Provision of regular power supply through solar cell technology.
- Use of cost effective technology: Wireless in Local Loop systems, J2MEE, mobile technology, IVRS tool and Hybridisation of connectivity options using land-based or wireless last-mile connectivity, like CorDECT developed by IIT, Chennai.
- Cluster level connectivity at the *Gram Panchayat* level, initially, and then expanding the system; and providing necessary equipment to the lowest levels of *Panchayats*, including computers with WAN connections and separate office buildings to *Panchayats*
- Technologies that facilitate communication in the local languages.

TRANSPARENCY INTERNATIONAL INDIA

TI India is a not-for-profit, non-party NGO of voluntary workers formed in 1997 and registered under the Registration of Societies Act 1860 at New Delhi in 1998. It is accredited to the world body Transparency International, devoted solely to combat corruption—both in international business transactions and at national levels and to increase government accountability. TI India's prime objective is to promote transparent and ethical governance and to eradicate corruption. Accordingly, TI India has taken an active part in the following matters:

- Electoral, judicial and civil service reforms.
- Annual declaration of assets by Ministers and MPs; such declarations should be available to the public, and penalties should be provided for false and/or non-declaration.
- Compulsory audit of accounts of political parties.
- Speedy trial of criminal cases against Ministers and MPs.
- Enactment of legislation for Lok Pal (Parliamentary Ombudsman).
- Enactment of legislation for Indian Whistle Blowers' Protection.
- Enactment of foolproof legislation for forfeiture of illegally acquired property by corrupt persons, including Ministers and MPs.

Accordingly, in association with like minded NGOs, TI India has been successful in getting it mandatory for all the contestants to Parliament and State Legislatures to declare their educational qualifications, assets & liabilities, criminal records, etc. while filing their nominations.

Besides, it has been involved in the following studies and publications:

- Conference & Workshops on "Delays & Corruption in Indian Judicial System: Remedial Measures" (December 1999).
- Citizens' Charters: Awareness Implementation and Improvements.
- Corruption in India: An Empirical Study (December, 2002) pertaining to 10 public service Departments like Police, Health, Education, Taxation, Railways etc.
- India Corruption Study 2005 covering 11 public services in 20 States.
- Corruption Perception and an Approach to Combat.
- Stamp Duty & Tax Evasion in Property Transactions.
- A Study of Corruption in the Trucking Operations in India—2006.
- Bhrastachar Se Mukabla: Rashtriya Sadachar Vyavastha Ke Tatav (Hindi Version of TI's Source Book).
- Bharat Main Bhrastachar Aur Usse Mukabla (Hindi Version of India Corruption Study 2005).
- Children's Film on Corruption.
- Awards for Journalistic Excellence in Exposing Corruption.
- Organisation of National and Regional-level Seminars on Improving Governance.

As a TI India initiative, the concept of Integrity Pact in public procurement and contracts has been favourably received by a number of PSUs, including ONGC, HPCL, GAIL, Coal India, RNIL (Vishakhapatnam) and others under the Ministry of Steel. Administrative Reforms Commission and Central Vigilance Commission have also recommended its incorporation in contracts.

TI India has also been involved in many official advisory councils, forum, etc.