



TRANSPARENCY INTERNATIONAL INDIA

Editorial

Quarterly

Seeking Synergy

Three irreversible discourses of human rights, environment, and transparency have resulted in enactments of laws, growth of institutions to oversee implementation of legislation, and rise of civil society. These movements are well entrenched and seriously engaged in pursuit of objectives. They have brought about a considerable change in consciousness in the form of social activism and raised expectations of enlightened groups with a say in policy making.

However, the maturation of these movements must be preceded by a network of concerns. Human rights encapsulate issues of right to information. Similarly, preservation of ecology is closely related to right to life which is cornerstone of the Constitution. And both human rights and environment are affected by dynamics of transparency. In an opaque regime of secrecy, human rights and environment are trampled. But a transparent, accountable, and responsible administration shall diligently protect rights of citizens and protect degradation of environment.

Hence in order to bring about synergy within these movements, the three wings of governance must consider these as part of each other. A corrupt regime creates embryonic space that germinates indignities to the human being and feeds on exploitation of natural resources thus endangering ecology, disturbing the natural balance, and creating problems for future. The three discourses therefore have an umbilical relationship. Damage to one has an adverse impact upon other two. A denial of human rights is a consequence of a non-transparent

administration. It is thus the core value of transparency that radiates strength to human rights and environment. Transparency of ideas, implementation and involvement automatically further the causes of human rights and environment.

Though it is a progeny of the rights discourse, transparency is protector of both its creator and sibling of environment. To that extent it is the most crucial of the three. Human rights, environment, and transparency are intertextual and woven by an invisible streak of corruption/integrity. Together, these have multiple potentialities.

Integrity Pact

During the Quarter, TI-I signed MoUs for Integrity Pact with Bharat Sanchar Nigam Limited (2 March), Bharat Coking Coal Ltd. (4 March), RITES (13 March), Chennai Petroleum Corporation Limited (24 March), and Shipping Corporation of India (26 March), bringing the total to 37.

Positive feedback was received from CEOs and IEMs on the IP's working. ONGC reported greater transparency and integrity between buyer and sellers, improved sense of ethics in the organization and among the bidders, reduction in number of complaints/representations, reduced political and administrative interference, reduction in external interventions in matters of contracts and tenders, and speedy decisions since the matters were referred of the IEMs. Hindustan Petroleum Corporation Ltd. implemented the pact in 71 cases. There had been no instance of any difficulty or dispute for which the pact had to be invoked. In 11 bids wherein the Gas Authority of India used IP, there was no problem. SAIL implemented the pact in 55 tenders and faced no problem. TI-I shall continue to monitor the functioning of the tool on a regular basis so that the problems, if any, could be resolved.

Presentation on Integrity Pact

Dr S K Agarwal made a presentation at -

- ◆ FORE School of Management (4 February)

Transparency International India

Lajpat Bhawan, Lajpat Nagar

New Delhi-110 024, India

Tel. (011) 2646-0826 / 2922-4519

Telefax : (011) 2646-0825

Editor : P. S. Bawa

E-mail: info@transparencyindia.org

Website: www.transparencyindia.org

- ◆ a Conclave of Vigilance Officers of Port Trusts/PSUs under the Ministry of Shipping (18 March).
- ◆ Indian Institute of Coal Management, Ranchi (23 March).
- ◆ Singreni Collieries, Kathgodam, Andhra Pradesh (28 March).

Development Pact

The Development Pact has been conceived by TI India to ensure that the allocations by the Planning Commission for the poor in the rural areas are spent upon the projects meant for them. It is designed to help the disadvantaged groups to increase their participation and oversight in the development process. It is a tool for fighting corruption as it demands greater transparency and accountability from political representatives. It is an agreement and a commitment by the elected representative to fulfill the promises on development needs.

The first pact has been signed between the TI-I and Jal Bhagirathi Foundation, Jodhpur. The latter has consented to implement the Pact with the elected representatives. It is proposed to extend it in the states of Bihar, Chattisgarh, Orissa, and Rajasthan at the initial stages.

Seminar by TI-I Karnataka & Lok Ayukta

A joint seminar was organized on 21 February by TI-I's Karnataka Chapter with the support of Lok Ayukta of Karnataka. The prominent speakers on the occasion were Justice Santosh Hegde, the Lok Ayukta, Justice (Dr.) SR Nayak, Chairman of the Karnataka Human Rights Commission, Justice N Venkatachala, former Judge of the Supreme Court and later Lok Ayukta, and Justice MF Saldanha, Chairman of the TI-I's Karnataka Chapter.

Admiral Tahiliani, Chairman, spoke at the seminar. PS Bawa presented a paper on 'Fighting a Monster'.

TI India's Annual Lecture

The first annual lecture was delivered by Lord Meghnad Desai at the India International Centre, New Delhi, on 16 January, on the subject of 'Development and Corruption'.

Other Lectures

TI India participated in the following seminars and delivered lectures

- ◆ Anupama Jha at the National Judicial

Academy, Bhopal

- ◆ Dr S K Agarwal delivered a talk on RTI Act to Rotary Club of North Delhi (25 February)
- ◆ Chairman spoke to a group of activists at Bhubaneswar on 25 January.
- ◆ Chairman sent a paper on 'Ethics in Business' in a seminar organized by Delhi School of Economics at Pondicherry (12 February)
- ◆ P S Bawa delivered a lecture on 'Transparency, Accountability, and Responsibility' to officers at Police Training College, Delhi Police (5 March).
- ◆ P S Bawa spoke to probationers of the Delhi Judicial Service (24 March).
- ◆ Dr S K Agarwal was also consulted by (i) Bureau of Indian Standards on governance (6 Jan), (ii) Ministry of Rural Development on 'Rural Households-centered Strategy on Poverty Eradication in India by 2015' (13 Jan), and (iii) Quality Council of India on 'Transparency in Public Services' (25 Feb).

Television Appearances

Dr S K Agarwal appeared on (i) Lok Sabha TV on the issue of amendment to the Prevention of Corruption Act (17 Jan) and (ii) Live India TV in a discussion on Lok Sabha elections (9 March)

Anupama Jha appeared on (i) ABC Television on 'Corruption in Police' (13 Jan), and (ii) Pragya TV for a youth program (15 Jan).

Candid Gesture by Advisory Council Member

Fali S Nariman, member of TI India's Advisory Council, declined the request of Delhi High Court seeking his assistance as *amis curie* in a case filed by the Supreme Court against the order of the Central Information Commission directing the apex court to declare the assets of the judges under the RTI Act. He informed the Court that he had definite views on the issue. He maintained that judges of the highest court who had powers of life and death over the citizens must be amenable to good practice.

TI-I Award to National Security Guards

The Karnataka chapter of TII acknowledged the contribution of the NSG during the terrorist attack at Mumbai and honored its Director General JK Dutt. Since he could not attend the ceremony at Bangaluru, the award was presented to him at the NSG mess.

Initiative of BPR&D

The Bureau of Police Research & Development, Ministry of Home Affairs, has advised all Directors General of Police in the country to include themes like transparency, Right of Information Act as a tool of management, and citizens' charter to be included in the courses being organized at the training institutions for various ranks of the police personnel. TI-I appreciates the initiative of the Bureau in this direction, as it has taken note of the seriousness of the problem thus: 'Corruption is like a termite which is eating away into the vitals of our socio-economic health and is gradually deepening its roots into the society. This extent of corruption in the national polity and public life cannot go on forever, without disturbing the overall peace in the society'.

Orissa Chapter

The Chapter remained very active in transmitting the message against bribery by conducting the following activities

- ◆ Administration of oath to public at Lord Jagannath Temple and the ISKCON (1 Jan)
- ◆ Discussion on peoples' manifesto for general elections to combat corruption (21 Feb)
- ◆ Training for using RTI Act at Barapada (4 March)
- ◆ Lectures were delivered by Ajit Mahapatra at (i) Sai Technical University, Sambhalpur (13 Feb), (ii) Belpahar to executives of Tata Refineries, Mahanadi Coalfields, and Orissa Power Generation Corporation (17 Feb), (iii) Rourkela to staff & students of Indian Costing Institute (21 Feb), (iv) IIT Delhi to the management students (26 Feb), and (v) Balasore to Self Help Groups (27 Feb).
- ◆ Discussions and meetings were organized and lectures delivered by Dr. Achyutananda Patnaik at Khurda (26 Jan), Bhubaneswar (16 Feb & 17 March), Tata Institute of Social Sciences, Mumbai (15 March), including a group discussion among teachers from 20 colleges at Bhubaneswar (17 March).
- ◆ Prof (Dr.) Debi Prasanna Patnaik (Padmashree) delivered a memorial lecture at Sambalpur (1 Jan), and spoke on the annual day of an NGO 'Viswa' (6 Jan), at the Institute of Human Rights Education (31 Jan), R.K. Mission Education Centre, Kalahandi (6 Feb), and Kendrapada College (11 Feb)
- ◆ Dr. Bimalendu Mohanty, Chairman of the

Chapter, addressed six meetings at Puri (12 Jan), Bhubaneswar (14 Jan, 6 Feb, 5 and 21 March), and Konarak (11 Feb).

UP Chapter (Central & Eastern)

US Pandey delivered a talk on 'Meaning of success in Life and Ethics' at Lohia Institute of Information Technology, Orai, on 15 Feb.

The Chapter filed three RTI applications seeking information on action taken on Lok Ayukta's recommendations in some specific cases, frequent transfers of police officers at the district level, and action taken by the State on the Supreme Court decision on police reforms.

The Governor was requested to indicate position regarding tabling of reports of Lok Ayukta in the state legislature.

A model Citizens' Charter for the subordinate judiciary was prepared and sent to the Chief Justice and senior Judges of the UP High Court.

The appointment of one candidate to the post of Chief Information Commissioner was objected to and the Governor requested not to appoint as cases of corruption were pending against him.

Uttarakhand Chapter

During the Quarter, the Chapter held a meeting on 30 March for the formation of its new Management Committee, and to decide its programme of work for the next quarter.

Discussions were held with the (i) Chief Justice of Uttarakhand High Court, Nainital, wherein he agreed for a presentation to the trainees at the Uttarakhand Law Academy at Bhowali, and (ii) Commissioner of Nainital (who is also Director of ATA Uttarakhand), for talks on transparency and corruption at the Academy.

Supreme Court decisions

The apex court dismissed the petition of underworld don Babloo Srivastava who sought a stay on his conviction in a case of murder of a customs officer in order to contest Lok Sabha elections. (*The Times of India*; March 5, 2009)

The Supreme Court has set aside an order of the High Court that suspended the conviction of an official convicted for an offence under the Prevention of Corruption Act. It found the order of the appellate court unreasonable as it had not recorded any reason. The court said, 'Corruption of public servants has now reached a monstrous

dimension in India. Its tentacles have started grappling even the institutions created for the protection of the Republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices through strong legislative, executive as well as judicial exercise, the corrupt public servants could even paralyze the functioning of such institutions and thereby hinder the democratic polity'. (*Central Bureau of Investigation v. M.N. Sharma*; 2009 AIR SCW 433)

In another case (*Surain Singh v. State of Punjab*; 2009 AIR SCW 844), the Supreme Court observed, 'Day in and day out the problem of corruption among the public servants is on the increase. Large-scale corruption retards the nation building activities and everyone has to suffer on that count. Corruption is corroding like cancerous lymph nodes, the vital veins of the body politics, social fabric of efficiency in the public service and demoralizing the honest officers. The efficiency in public service would improve only when the public servant does his duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post'.

Similarly in *Central Bureau of Investigation v. Roshan Lal Saini*; 2009 AIR SCW 7982, the Supreme Court mentioned, 'When a public servant is found guilty of corruption after a judicial process conducted by a court of law, judiciousness demands that he should be treated as corrupt until he is exonerated by a superior court... If such a public servant becomes entitled to hold public office and continue to do official acts,...it is public interest which suffers and, sometimes, even irreparably... If public servants are compelled to take orders from proclaimed corrupt officers on account of suspension of the conviction, the fallout would be one of shaking the system itself.' The Court laid the legal position thus: 'It would be a sublime public policy that the convicted public servant is kept under disability of the conviction in spite of keeping the sentence of imprisonment in abeyance till the disposal of the appeal or revision'.

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