Golden Jubilee
of
Central Vigilance Commission

National Seminar
on
Combating Corruption:
Role of Accountability Institutions,
Investigating Agencies, Civil Society and Media

Report

11-12 February, 2014
Vigyan Bhawan
New Delhi
A report
of the
National Seminar
on

Combating Corruption:
Role of Accountability Institutions,
Investigating Agencies, Civil Society and Media

held to commemorate the
Golden Jubilee
of the
Central Vigilance Commission
1964 - 2014
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2. **Plenary Session 1**

**Strengthening frameworks for improving the anti-corruption climate in India**

Introductory Remarks: Shri Kapil Sibal, Minister for Communications & IT and Law & Justice

Remarks: Dr. Jayprakash Narayan, Activist

Remarks: Professor (Dr.) Venkata Rao, Vice Chancellor, NLSUI, Bengaluru

Remarks: Dr. S. K. Sarkar, Secretary, Department of Personnel & Training

3. **Breakout Session I**

**Role of investigating agencies: Ensuring Autonomy with Accountability**

Introductory Remarks: Justice A.P. Shah, Chairman, Law Commission

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Remarks: Shri R. Sri Kumar, Former Vigilance Commissioner, CVC

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Remarks: Shri K.K. Venugopal, Senior Advocate, Supreme Court of India
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**Combating Corruption: Technology as an Enabler**

Introductory Remarks: Shri J. Satyanarayana, Secretary, Department of Electronics & Information Technology

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Remarks: Shri M. J. Joseph, Additional Secretary, Ministry of Corporate Affairs

Remarks: Shri Vijay S. Madan, Director General and Mission Director, Unique Identification Authority of India

Remarks: Shri Arup Roy Choudhury, CMD, National Thermal Power Corporation

5. **Plenary Session 2**

**Corporate Ethics: Moving beyond dilemmas**

Introductory Remarks: Shri P. Chidambaram, Minister of Finance

Remarks: Shri Ashok Chawla, Chairman, Competition Commission of India

Remarks: Shri Sidharth Birla, President, Federation of Indian Chambers of Commerce and Industry

Remarks: Shri Ajay Shriram, President Designate, Confederation of Indian Industry

Remarks: Professor Jayati Ghosh, School of Social Sciences, Jawaharlal Nehru University

6. **Breakout Session III**

**360 Degree approach: Role of civil society and media in combating corruption**

Introductory Remarks: Justice G.N. Ray, Former Chairman, Press Council of India

Remarks: Shri Jawahar Sircar, CEO, Prasar Bharti

Remarks: Shri Raj Chengappa, Editor, The Tribune

Remarks: Shri Vinod Mehta, Editor-in-Chief, Outlook

7. **Breakout Session IV**

**Combating Corruption: Electoral Reforms & Political Accountability**

Introductory Remarks: Shri S. Y. Quraishi, Former Chief Election Commissioner

Remarks: Dr. Samuel Paul, Chairman, Public Affairs Foundation, Bengaluru
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**Central Vigilance Commission: The Way Forward**

*Introductory Remarks:* Shri Pratyush Sinha, Former Central Vigilance Commissioner

*Remarks:* Shri A.P. Singh, Former Director, CBI and Member, Union Public Service Commission

*Remarks:* Shri Vineet Narain, Journalist

*Remarks:* Dr. Jayaprakash Narayan, Activist

*Remarks:* Shri J. M. Garg, Vigilance Commissioner, CVC

9. **Valedictory Session**

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**Welcome:** Shri Pradeep Kumar, Central Vigilance Commissioner

**Speech:** Shri V. Narayanasamy, Minister of State for Personnel, Public Grievances & Pensions

**Valedictory Speech:** Justice P. Sathasivam, Chief Justice of India

**Vote of thanks:** Shri J. M. Garg, Vigilance Commissioner, CVC

10. **Committees**

11. **Acknowledgements**
It is a matter of satisfaction that the Central Vigilance Commission (CVC) has successfully completed fifty years. The CVC which was established through a Resolution of the Government of India on 11 February, 1964 was conferred statutory status through an Act of Parliament in 2003 in recognition of its significant role in the fight against corruption.

The changing complexion of India’s growth paradigm has brought about fresh challenges in combating the menace of corruption. In an environment of rapid economic development and growth, the dimensions and scope for corruption has also undergone change. This change is not unique to the government or the public sector alone. The corporate sector is also faced with the challenge of determining processes to withstand negative influences which compromise integrity, ethical values and accountability.

The macro environment is, in many senses, a product of the socio-political and economic sub cultures. Indeed, there is a close relationship between the two, whether it is the political processes or the engagement of civil society groups. Various shifts in the economic ecosphere have been intrinsically linked to the shaping of the current narrative on corruption in everyday life. Proactive empowerment tools by the government such as the right to information have served to demystify and peel away the opaqueness of government at various levels. Education and media both print and electronic (including the so-called ‘new’ media) have ushered in a new sense of responsibility. The growth and penetration of internet and communication technologies have brought in a new urgency to the demands of the people.

The Golden Jubilee of the Central Vigilance Commission was an opportune occasion to assess the role of the accountability institutions, investigating agencies and the role of the media and civil society in the challenge of combating corruption. All these institutions have been and will continue to remain key stakeholders in the fight against graft and abuse of position. The CVC, therefore, organized a national level seminar and invited eminent personalities and experts engaged in respective fields to share their perspectives in the matter. The seminar provided an opportunity to test conventional
approaches, validate new thoughts and look ahead to devise ways of approaching the challenges in
the future.

The deliberations in the seminar were wide ranging and touched upon several contemporary concerns. The discussions covered considerable ground over two days through the format of plenary and breakout sessions by eminent chairpersons and speakers. Both the Hon’ble President of India and the Prime Minister graced the inaugural session with their presence and shared their thoughts and vision on this important subject. The Chief Justice of India presided over the valedictory function and shared his perspectives. The Commission is grateful to all the dignitaries and all participants for their support in making the seminar a success.

This Report is intended to provide a record of the deliberations on the different themes and subthemes of the seminar. It is our expectation that it will contribute to the current discourse on the subject of corruption and provide new dimensions in our approach to address the issues.

PRADEEP KUMAR
EXECUTIVE SUMMARY
A National Seminar on ‘Combating Corruption : Role of Accountability Institutions, Investigating Agencies, Civil Society and Media’ was organised by the Central Vigilance Commission to mark its Golden Jubilee on 11-12th February 2014 at Vigyan Bhawan, New Delhi. The Golden Jubilee Celebration was inaugurated by Shri Pranab Mukherjee, the Hon’ble President of India and was presided over by Dr. Manmohan Singh, Prime Minister of India. The Union Minister for Communications and IT & Law, Shri Kapil Sibal, Leader of the Opposition in Parliament, Smt. Sushma Swaraj and Minister of State for Personnel, Public Grievances & Pensions, Shri V Narayanasamy also graced the occasion.

Former CVCs and Vigilance Commissioners, Heads of Statutory bodies, senior officers of the Ministries/Departments, Chief Executives and Chief Vigilance Officers of Public Sector Undertakings, Banks, NGOs, Members of Civil Society and Media persons attended the function.

Shri Pradeep Kumar, Central Vigilance Commissioner (CVC) welcomed the dignitaries and participants and gave a brief account of the evolution, role and responsibilities of the Central Vigilance Commission over the years. He underlined the challenges before the Commission in fighting corruption and the growing demand from people for good governance and a corruption free society. The CVC stated that the Commission has always been endeavouring to create an environment in which the honest can work fearlessly and the corrupt have no place to hide. He added that the Commission considers it important to work for systemic reforms like simplification of rules and regulations, reduction of discretion etc. and leveraging of IT & Technology to combat corruption and increase fairness, transparency and accountability in government functioning.

Shri V Narayanasamy, Minister of State for Personnel, Public Grievances & Pensions, in his remarks observed that the CVC has over the years played a very important role in vigilance administration and combating corruption. He noted that CVC has suggested various measures to make administrative procedures transparent and fair to minimise scope for misuse of powers. The steps taken by the Government like the historic Lokpal Act and other legislations on the anvil including ratification by India of the UNCAC were also underlined. The Minister of State also informed of the efforts made to set up more than 90 special courts for trial of corruption cases, timelines prescribed for departmental proceedings to swiftly book the corrupt and to ensure that the innocent are not subjected to undue harassment. Shri Narayanasamy stated that the anti-corruption functionaries need new and effective ways to conduct multi-jurisdictional investigations and prosecution to unearth cross-border cases
and their perpetrators. He concluded with the hope that the deliberations of the seminar will throw up ideas and opportunities which will go a long way in shaping the role of CVC in the years to come.

Smt. Sushma Swaraj, Leader of the Opposition in Lok Sabha, extended her wishes to the Commission for celebrating 50 years of its existence. She recalled that the CVC was established in 1964 by a Resolution. It was conferred statutory status as a multi-member body in 2003. She stated that sometimes the proactive approach of oversight institutions is not appreciated by the Government. Our Constitution is based on principles of checks and balances. She called for a resolve to not weaken the institutions like CAG & CVC which are entrusted with responsibilities to keep oversight on us. She concluded that it is our responsibility as citizens to provide a corruption free country to our future generations.

Shri Kapil Sibal, Union Minister for Communications and IT & Law, in his remarks observed that issues of corruption of politicians and civil servants dominate public discourse on governance and the notion of unfairness of Governments is reinforced by the perception of the common man. He reminded that citizens want public service delivery systems to be efficient and corruption free. He underlined that laws alone are not enough and timely enforcement is the key to effective deterrence. He concluded noting the role played by the CVC over the years in bringing transparency and accountability and that it was a fitting tribute that a commemorative postage stamp was being released.

The Hon’ble President unveiled the commemorative postage stamp on CVC. Thereafter, the Hon’ble Prime Minister released a Coffee Table Book on the evolution of the CVC, titled ‘The Untiring Eye’ on the occasion.

Dr. Manmohan Singh, Prime Minister of India, in his address said that CVC is an important part of institutional framework for fighting corruption and ensuring probity, transparency and accountability and that since 50 years it has served the country with distinction. He recalled the increase in scope and complexity of the work of the CVC since 1964 and the transformation the institution has undergone. He stated that the last few years had seen a vigorous debate on corruption with civil society and media being active, leading to increased awareness and expectations of people. The Prime Minister reiterated that accountability institutions like the CVC act as aid to the governance process and emphasised the need for due care to ensure that honest officers are not harassed for bonafide mistakes that they might make while taking well-meaning decisions. He underlined that we must ensure championing the cause of the man of integrity in all our institutions and that if this does not happen decision making would suffer badly and stifle the process of governance. He therefore stated that maintaining this balance involves high degree of expertise in analysing and scrutinising complex decisions of policy.
formulation and implementation. Therefore, he observed the requirement for professional expertise in agencies like the CVC and CBI as well as the need to be careful and quick in addressing vigilance matters. He stressed on the need for autonomy of investigating agencies but also was of the view that it is necessary to ensure that the political executive exercises oversight expected in a democratic polity.

Shri Pranab Mukherjee, the Hon’ble President of India, in his address congratulated the Central Vigilance Commissioners past and present as well as staff of the CVC over the years for their commendable service to the nation. Recalling the constitution of CVC in 1964, concerns of the Santhanam Committee and the institutional and legal framework over the years, he was of the view that corruption remains a stumbling block in national progress as it increases transaction costs for business and reduces the efficiency of public services. He said that the public outcry against corruption in recent times reinforces the urgent need to restore the faith of public in governance systems and credibility of institutions. He quoted the words of Shri Lal Bahadur Shastri while establishing the CVC in 1964 and reminded that it is our duty that we must confront the challenge of corruption head on and the CVC has an important role to play. He exhorted that CVC must re-energise itself and pro-actively lead the charge, expeditiously investigate all allegations of corruption without fear or favour and at the same time ensure that reputation and careers are not tarnished in the process. He also stated that CVC should be an ally to good governance and bold decision making in the interest of the country. Complementing the CVC on the theme of the seminar, he observed that various innovative steps have been taken in the past such as e-procurement, reverse auction, integrity pact etc. Concluding the address, he called upon the CVC to lead the way in cleansing government and to contribute to reverse the cynicism towards government functionaries and expressed confidence that the CVC will continue to function as a strong and effective body making useful contributions in checking corruption as well as mal-administration.

Shri J M Garg, Vigilance Commissioner, proposing the vote of thanks assured the dignitaries that the CVC would remain steadfast and contribute in realising every Indian’s dream of a corruption free India. He thanked all the dignitaries present on the occasion for their unconditional help and support.

The inaugural ceremony concluded with the rendition of the National Anthem.

The National Seminar comprising three Plenary and four Breakout sessions on various issues on combating corruption were held during the two day seminar. Eminent speakers/panelists from diverse backgrounds participated in the deliberations. Discussions in the various sessions are summarised below.
In Plenary Session – I on ‘Strengthening framework for improving the Anti-Corruption Climate’, the Chairman of the Session, Shri Kapil Sibal, Hon’ble Minister for Communications & Information Technology and Law & Justice, while acknowledging that corruption is a global phenomenon, stressed the need for better legal framework and use of modern technology in combating corruption. He reiterated that there is a need to balance accountability with autonomy. Dr. Jayaprakash Narayan, Activist dwelt on the virtues of preventive vigilance and the need to break the vicious cycle of corruption. He emphasised accountability, integrity, competence and autonomy as factors in the fight against corruption. Dr. R Venkata Rao, Vice-Chancellor, NLSUI, Bengaluru spoke about the need for institutionalising the system and to focus on issues related to corruption in rural areas. Dr. S K Sarkar, Secretary, Department of Personnel and Training stressed on the importance of collaboration with international agencies in fighting corruption and highlighted the importance of India’s judiciary in the fight against corruption.

In Breakout Session – I on the ‘Role of Investigating Agencies : Ensuring Autonomy with Accountability’, Justice A P Shah, Chairman, Law Commission, the Chairman of the Session said that the conduct of police is an important parameter of the state of governance and social health of nation and police plays a vital role in the same. He expressed that there was no progress with regard to police reforms and without police and judicial reforms, electoral reforms cannot serve any purpose. Shri Vinod Rai, former Comptroller & Auditor General of India (C&AG) elaborated on the accountability and autonomy of policing agencies and the need for isolating investigating institutions from inappropriate influence. He mentioned that autonomy and accountability are not incompatible but go hand in hand and accountability is the price to pay for gaining autonomy. He said that loyalty should be shown to duty and everybody must realise that credibility is the creation of their performance. Shri R Sri Kumar, former Vigilance Commissioner, mentioned about lack of coordination amongst investigating agencies and insulating investigating agencies from interference. Shri Ranjit Sinha, Director, CBI deliberated about the working conditions of police officials and the role of CBI. He stated that CBI has been able to earn wide and deep trust from the courts, media and the public at large and this trust has been built over a number of years not only due to the professional work of fearless CBI officers but because of the environment in which these officers have been allowed to work. Shri Sinha added that autonomy and accountability are two sides of the same coin.

The Chairman of the Breakout Session–II on ‘Combating Corruption : Technology as an enabler’, Shri J Satyanarayana, Secretary, Electronics & IT, spoke about India’s position in the global corruption index and various causes of corruption such as excessive regulation, complex procedures etc. He described the various levels of corruption and the strategies for combating
them. Ms. Sudha Sharma, Chairman, Central Board of Direct Taxes, spoke about the need to minimise human interface and discretion to combat corruption. She informed about the various measures undertaken to automate processes in the Income Tax department. Shri M J Joseph, Additional Secretary, Ministry of Corporate Affairs spelt out the details of the MCA 21 initiative of the Ministry, which was launched in 2006 as a Service Delivery Model Project and highlighted its benefits. Shri Vijay S Madan, DG & Mission Director, Unique Identification Authority of India, in his address shared the case study of implementation of ‘Aadhaar’ in India. He said that ‘Aadhaar’ was introduced with the vision to empower the citizens of India. Dr. Arup Roy Choudhury, CMD, National Thermal Power Corporation outlined lack of transparency, lack of competition, lack of information and human manipulation as the four broad reasons for corruption. He said that vigilance is not a standalone activity but part of the overall risk mitigation strategy and that it is important to re-engineer processes by leveraging Information Technology to combat corruption.

In Plenary Session – 2 on ‘Corporate Ethics : Moving beyond dilemmas’, the Chairman, Shri P Chidambaram, Minister of Finance elaborated on the role of a Joint Stock Company and touched upon issues like layering of companies, interlocking of companies and real ownership/controller of the company. He added that the new Companies Act is a great step forward from the old Act. To implement integrity and transparency, he reiterated the steps that need to be followed, namely self-regulation, enforce compliance, role of shareholders, Board of Directors and role of Regulators or any arm of the regulators. He said that regulators should intervene in case of gross violation/excesses or where there is a clear case of criminality. He added that if any non-criminal deviation is also investigated by the regulator, the regulator will simply be overburdened with work and regulation will fail. He also laid great stress on self-regulation as too much of external regulation will kill the spirit of innovation and enterprise.

Shri Ashok Chawla, Chairman, Competition Commission of India (CCI) mentioned that the private sector is now playing a much bigger role in India and the global paradigm puts no global boundaries between businesses. Thus there is focus on corporate ethics but the legal architecture also needs to be upgraded and robust implementation of good laws in letter and spirit needs to be done. Shri Sidharth Birla, President, Federation of Indian Chambers of Commerce and Industry (FICCI) dwelt on the steps being taken by FICCI to develop a model code of conduct and creating awareness on inclusive governance. Shri Ajay S Shriram, President Designate, Confederation of Indian Industry (CII) mentioned that CII, in partnership with Indian industries, is raising awareness on corporate ethics and that studies have shown that good ethical practice makes good business sense. Prof. Jayati Ghosh, School of Social Sciences, Jawaharlal Nehru University mentioned that the trust deficit between society and business threatens the fabric of society and this has achieved endemic proportions. She mentioned that acceptance of compliance accompanied with change in mindset will be
beneficial for economic growth and development and will be in the interest of the corporate sector. She urged the need to stop regulatory forbearance.

In the Breakout Session – III on ‘360 Degree Approach: Role of Media and Civil Society in combating corruption’, the Chairman of the Session, Justice G N Ray, former Chairman, Press Council of India opined that monopoly of newspaper houses due to Cross Media representation and the Paid News Syndrome are some of the issues facing the media. He said that neutrality of news is a very important need for the media and mentioned that while corporate ownership is needed for growth of media, a balance of opinion should be maintained. Shri Jawahar Sircar, Chief Executive Officer, Prasar Bharti submitted the need for flexible procedures in handling corruption cases. He mentioned that public perception of the 4th Estate has failed, which is very damaging for the socio-economic fabric of the nation. He said that there is no regulatory mechanism over the print or electronic media. He reminded that as the world is moving to a digital age, the choice is between a social media that has no rules for engagement or to bring regulatory bodies for all issues, including transparency and probity. Shri Raj Chengappa, Editor-in-Chief, The Tribune was of the view that too much regulation may take away the much needed freedom of media and that the legislative architecture is strong enough to handle issues of accountability of the media. He mentioned that the trust of readers is the ultimate cornerstone and any reader can switch off a media if that trust is broken. Shri Vinod Mehta, Editorial Chairman, Outlook acknowledged that there is corruption in media but media remains a big force to unearth information and should restrict its role to being a provider of information and not take on itself other roles like becoming a court of law.

The Chairman of the Breakout Session - IV on ‘Combating Corruption: Electoral Reforms & Political Accountability’, Shri SY Quraishi, former Chief Election Commissioner mentioned that the most lucrative business today is politics. He deliberated on the irregularities committed by political parties to capture power and political funding, which has become a source of corruption. He suggested state funding of elections. Dr. Samuel Paul, Chairman, Public Affairs Foundation, Bengaluru suggested public funding and to get our act together to contain corruption. Dr. Satyanand Mishra, former Chief Information Commissioner & Chairman, Multi Commodity Exchange of India Ltd., stressed on the need for political parties’ accountability and scrutinising their funds. Shri G K Pillai, former Home Secretary & Chairman, MCXSX Stock Exchange Limited mentioned that the general public must take interest and put pressure on political parties to perform and bring reforms. Prof.(Dr.) Ranbir Singh, Vice-Chancellor, National Law University, Delhi mentioned that immediate measures have to be undertaken for bringing in political reforms otherwise it would be too late.
In Plenary Session-3 on ‘Central Vigilance Commission: The way forward’, the Chairman, Shri Pratyush Sinha, former Central Vigilance Commissioner observed that the Golden Jubilee Celebrations of CVC provided an opportunity for the organisation to introspect and assess its constraints, achievements and the goals which are yet to be achieved. Shri A P Singh, former Director, Central Bureau of Investigation (CBI) & Member, Union Public Service Commission (UPSC) congratulated the CVC for its sterling performance during the past 50 years of its history and said that with the passage of the Lokpal Bill, CBI’s capabilities would be required to be massively expanded and CVC would have to play an important role. He also stressed on preventive vigilance. Shri Vineet Narain, Journalist was of the view that creating new institutions would not solve the problem of corruption. He stressed on strengthening the vigilance administration at the unit level of Public Sector Undertakings by making Chief Vigilance Officers a part of CVC. He also suggested creation of a people’s voluntary vigilance commission by involving lawyers, journalists, social workers, and ordinary people from the taluk level to the national capital. Dr. Jayaprakash Narayan, Activist made many incisive points like CVC should look at the big picture and should contribute in making India grow and have a futuristic perspective, protect the people who expose graft, rely also on general reputation while making key appointments rather than basing decisions solely on confidential reports, seamless integration of CVC with Lokpal etc. He also stressed on exemplary punishment and confiscation of property of wrong-doers which would act as a bigger deterrent than even a jail sentence. He strongly underscored the need for rewarding the good guys and punishing the bad ones so that the bad ones who constitute 90% can gravitate towards the good guys. Shri J M Garg, Vigilance Commissioner, CVC listed out the various efforts being made by CVC for improving systems, simplifying rules and enhancing transparency in taking decisions.

The Valedictory function held on 12th February, 2014 was presided over by Justice P. Sathasivam, Hon’ble Chief Justice of India. Shri Pradeep Kumar, CVC welcoming the Chief Guest and the Minister of State for Personnel, Public Grievances & Pensions gave a brief account of the address of the Hon’ble President and Prime Minister in the inaugural session and the deliberations of the two day National Seminar. He thanked the Chairpersons, panelists and participants for the lively debates. He observed that to provide a credible deterrence against corruption it is necessary that the corrupt are promptly punished, however high and mighty they may be and that this is possible only if we have effective and independent institutions to uphold integrity. He stated that independence and autonomy are important ingredients of anti-corruption agencies which empowers them to act without fear or favour and reminded that autonomy and accountability are not mutually exclusive but go hand in hand. He emphasised on quick and speedy resolution of trials in corruption cases. He mentioned that several legislations aimed at curbing corruption and amendments to the Prevention of Corruption Act to match the realities of the day are on the anvil. Shri Pradeep Kumar assured
that the Commission shall always remain true to its vision of ensuring good governance by promoting the values of ethics and integrity in public affairs.

‘Watchful 50’, a documentary film depicting the Central Vigilance Commission and its journey over the years produced by Doordarshan was released by the Chief Justice of India to mark the 50 years of the Central Vigilance Commission.

Former Central Vigilance Commissioners and Vigilance Commissioners were felicitated by Justice P. Sathasivam, Chief Justice of India and Shri V. Narayanasamy, Minister of State for Personnel, Public Grievances & Pensions.

Shri V. Narayanasamy, Minister of State for Personnel, Public Grievances & Pensions in his remarks observed that lack of governance would undermine economic development and was of the view that India has the best drafted laws and institutions as frameworks to address corruption. He stated that the Lokpal and Lokayuktas Act, 2013 will be a potent weapon to address corruption and stressed on the need for a well defined code of ethics and its enforcement. He mentioned that several steps have been taken to simplify rules and procedures to reduce discretion, create transparency and for the empowerment of citizens. He was optimistic that the CVC will continue to play a pivotal role in effective governance.

Shri P. Sathasivam, Hon’ble Chief Justice of India in his valedictory address stated that the CVC as the integrity institution of the country has been instrumental in combating corruption for decades and congratulated the past and present members and officers of the Central Vigilance Commission for their dynamic support in combating corruption. He also commended the various initiatives and measures undertaken by the CVC in promoting transparency, accountability and fairness in public administration. He underlined corruption as the biggest threat to democracy and emphasised on the need for values in public life. Shri Sathasivam observed that the Central Vigilance Commission being the apex integrity institution entrusted with the task of overseeing vigilance administration and implementing government policies against corruption has greater responsibility in addressing the issue. He reminded that it is obligatory on every officer of the Commission to function in a fair, impartial and unbiased manner and to uphold and preserve the trust of the people in the institution of democracy. He reminded that while anti-corruption agencies are striving to address the problem of corruption, the task cannot be accomplished without the participation of all stakeholders including civil society. He requested through the august gathering that the courts dealing with corruption matters should make all endeavours for early completion of the trial. He also explained the steps taken for monitoring corruption cases in courts to address delays and also the provisions of the mechanism in place for addressing complaints against judges.
Sh J M Garg, Vigilance Commissioner, extended the vote of thanks to the Chief Justice of India and assured that the valuable suggestions and the ideas generated in the seminar would be considered by the Commission. He expressed gratitude to the judiciary for expediting corruption cases and for its commitment. He underlined the unstinted support and commitment of the Minister of State for Personnel, Public Grievances & Pensions to the Commission. He also thanked the former Central Vigilance Commissioners and Vigilance Commissioners for their unyielding commitment and hard work over the years. Finally, he conveyed thanks to all officers of the CVC, CVOs, and media for making the event a success and also Doordarshan for the documentary film produced to commemorate the Golden Jubilee of the CVC.
Role of Accountability Institutions
11-12 February, 2014
Jantar Mantar, New Delhi
INAUGURAL SESSION

Welcome by Shri Pradeep Kumar, Central Vigilance Commissioner

Respected Shri Pranab Mukherjee ji, Hon’ble President; Dr. Manmohan Singh ji, Hon’ble Prime Minister; Shri Kapil Sibal, Minister of Law, Communication & IT; Smt. Sushma Swaraj, Leader of Opposition; Shri Narayanasamy, Minister of State for Personnel & PMO; Shri TKA Nair, Advisor to the Prime Minister; Shri Ajit Seth, Cabinet Secretary; Former Central Vigilance Commissioners & Vigilance Commissioners; Lokayuktas & State Vigilance Commissioners; Senior Officers from Government of India; Chairmen & Managing Directors of PSUs & Banks; My colleagues from the vigilance fraternity; Members of the Media; Ladies & Gentlemen,

It is my proud privilege and pleasure to welcome everyone present here to the Golden Jubilee Celebrations of the Central Vigilance Commission. We are honoured to have in our midst, Rashtrapati Ji. He is an erudite scholar, an able administrator and an elder statesman. With his long experience in public life at the highest levels of decision making, we look forward to his words of wisdom. We are also privileged to have with us the Hon’ble Prime Minister, who despite his very busy schedule and the Parliament being in session, has kindly agreed to share his thoughts with us. With his rich and varied experience and deep insight into issues of governance, we look forward to his guidance. We are also thankful to the other dignitaries on the dais, whose presence today is an indication of their support and commitment to the institution of CVC.

The Central Vigilance Commission was established on 11th February, 1964 through a Government Resolution as an apex independent body for anti-corruption. Over the years, public debate and democratic thought process has reshaped the Commission entrusting it with new roles and responsibilities. In 2003, statutory status was conferred on the Commission. It became a multi-member body entrusted with the responsibility of superintendence over the anti-corruption work of CBI. In 2004, it was made the designated authority to receive whistle blower complaints and protect the whistle blowers. With the enactment of the Lokpal and Lokayuktas Act 2013, further responsibilities have devolved on the Commission. The Courts have placed their trust on the CVC, time and again by taking help in monitoring investigations into important corruption cases. In a globalised world, the Commission is actively engaged with other anti-corruption authorities and is an executive member of the International Association of Anti-Corruption Authorities.
Righteousness is the foundation of good governance. Gandhiji had said, way back in December 1947, and I quote, “It is the duty of all leading men, whatever their persuasion or party to safeguard the dignity of India. The dignity cannot be saved if misgovernance and corruption flourish. Misgovernance and corruption always go together” Unquote. Corruption undermines our developmental efforts and weakens democratic institutions. It corrodes the moral fibre of the nation. The poor are the worst affected. The challenge before the Commission has always been to create an environment in which the honest can work fearlessly and the corrupt have no place to hide. The guilty are punished swiftly and honest exonerated without any delay. The Commission considers it important to work for systemic reforms like simplification of rules and regulations, reduction of discretion etc. and leveraging of IT and technology to combat corruption and increase fairness, transparency and accountability in Government functioning.

The battle for corruption is fought on many fronts. The Commission engages with the civil society and other stakeholders and seeks their cooperation in this fight.

We are proud that the Central Vigilance Commission in the last 50 years of its existence has withstood the test of independence and objectivity. It has come to occupy a key position as an institution and oversight body which promotes good governance and probity in the public affairs of the country. We are continuously trying to build our capabilities and enhance our standards of work to meet the emerging challenges.

We are celebrating our Golden Jubilee at an interesting time in the history of our country. The deepening of democracy, the spread of education, IT and communication revolution, increased reach of electronic and print media, the Right to Information Act have made the people of India more aware and better informed. There is a growing demand from people for good governance and a corruption free society. The dynamics of the public discourse has changed.

The Golden Jubilee Celebration is an important milestone in our journey. It offers us an opportunity to celebrate what we have accomplished. It is also an occasion to introspect, deliberate, appraise and understand the demands on CVC to meet the changing aspirations of our people. This national seminar on “Combating Corruption: Role of Accountability Institutions, Investigating Agencies, Civil Society & Media”, we hope, will provide a forum for such introspection and deliberation. While we remain steadfast in our commitment to fight corruption, the discussions and suggestions made in the seminar, we are sure will help us in meeting the challenges of today and tomorrow better.

I welcome you once again to the Golden Jubilee Celebrations of CVC.

Thank you
Speech by Shri V. Narayanasamy, Minister of State for Personnel, Public Grievances & Pensions

Hon’ble President of India, Hon’ble Prime Minister, Hon’ble Shri Kapil Sibal ji, Minister for Communications & IT and Law & Justice; Hon’ble Leader of Opposition, Lok Sabha; Shri Pradeep Kumar, Central Vigilance Commissioner; Shri J.M. Garg, Vigilance Commissioner; Former CVCs and Vigilance Commissioners, Other officers of Government of India & State Governments, Friends from Media, Ladies & Gentlemen;

On behalf of all of you, I also extend my warm welcome to Hon’ble President and Hon’ble Prime Minister, Leader of the Opposition in Lok Sabha and other dignitaries. It is my pleasure and privilege to be present here on the occasion of the Golden Jubilee celebrations of the Central Vigilance Commission.

It is a matter of pride that the Central Vigilance Commission has, over the years, played a very important role in vigilance administration and in combating corruption. CVC has suggested various measures, from time to time, to make our administrative procedures transparent and fair in order to minimize the scope for misuse of powers. It is important to identify and punish corrupt individuals, for which we have to make sure that action is taken for effective investigation and quick trial to hand out swift and adequate punishment to the wrong-doers.

The government has taken a number of measures in this regard. The most important of these measures is the passing of the historic Lokpal Act, which will go a long way in curbing corruption at all levels in the Government. The ratification by India of the United Nations Convention Against Corruption has necessitated a review of the existing laws.

In order to fine tune our laws to make them more effective and attuned to the modern day realities, several new legislations are on the anvil such as, “The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill”, “Public Procurement Bill”, “The Prevention of Corruption (Amendment) Bill”, “The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill” and “Whistle Blowers Bill”, etc.

The proposed amendments to the provisions of the Prevention of Corruption Act, treat both the bribe taker and bribe giver equally for offences of bribery. Besides, there are provisions for confiscation of the ill gotten proceeds of bribery.

In addition to the legislative measures, the Government has set up more than 90 Special Courts for trial of CBI cases, so that cases do not linger on for several years. Substantial efforts have been made to enhance the resources available at the disposal of the CVC, the CBI and
other anti-corruption functionaries. Time lines have been put in place for various stages of departmental proceedings so that the corrupt are brought to book swiftly, and the innocent are not subjected to undue harassment due to prolonged proceedings.

The anti-corruption functionaries need new and effective ways to conduct multi-jurisdictional corruption investigations and prosecutions. Informal channels, such as police-to-police contacts, joint investigations by all the jurisdictions involved in cross-border cases help bring the full extent of corrupt schemes to light and their perpetrators to justice. Where formal channels to obtain legal assistance are necessary, they must not be subject to undue delays.

I hope that the deliberations over the next two days will throw up a number of ideas and opportunities to intensify the vigilance mechanism. This will go a long way in shaping the role of Central Vigilance Commission in the years to come. I convey my best wishes to all the officials of CVC and the vigilance fraternity on this occasion.

We look forward to the guidance of the Hon’ble President and Hon’ble Prime Minister in our endeavours. I wish the Golden Jubilee Celebration of Central Vigilance Commission every success.

Thank you

Jai Hind

Speech by Smt Sushma Swaraj, Leader of Opposition in Lok Sabha

परम सम्मानीय राष्ट्रपति जी, आदरणीय प्रधानमंत्री जी, आदरणीय भाई कपिल सिंह जी, आदरणीय भाई नारायण स्वामी जी, श्री प्रदीप कुमार जी, श्री अजीत सेंद जी, श्री गर्ग जी, इस समागम में उपस्थित अन्य प्रदेशों से आए हुए लोकायुक्त महोदय, सरनेह माइयों एवं बहनों।

सबसे पहले तो मैं केंद्रीय सतर्कता आयोग की अपनी 50वीं वर्षगांठ के उपलक्ष में बहुत-बहुत हार्दिक शुभकामनाएं और बधाई देती हूँ। 50 वर्ष के उम्र अर्हता के अपने जीवन की हो या किसी संस्था की, यह उम्र का एक ऐसा पड़ाव है, जहाँ छड़े होकर यह सोचना चाहिए कि हमने क्या खोया क्या पाया। अभी प्रदीप कुमार जी बता रहे थे कि 1964 में एक रेप्पलेशन के आधार पर सीवीसी का गठन हुआ। यानि 40 वर्ष तक यह संस्था एक पार्ट्यामेंट के रेप्पलेशन के आधार पर चली। लेकिन 2003 में इसे कानूनी जामा पहनाया गया। उस समय सरकार अंग होने के नाते में पूरी उस प्रक्रिया की हिस्सेदारी थी, जब उस एक्ट बनाया जा रहा था। इस एक्ट के माध्यम से सीवीसी को बहुसदर्शीय बनाया गया। कमीशन को मल्टी मंबर कमीशन बनाया गया और सीवीसी का सूफ्रियेंड कंट्रोल इसे दिया गया और जैसे कि अपेक्षा थी, उस एक्ट के बाद सीवीसी ने एक नई ऊंचाई अपने आप में महसूस की और एक नए उत्साह के साथ उन्होंने काम शुरू किया। लेकिन कई बार निम्नेहवानी संस्थाओं का उल्लंघन शासनों को रास नहीं आता। शासन प्रदेश सरकारों के हों या राज्य सरकारों के। बहुत-से लोकायुक्त यहाँ बैठे हैं, वो साथी होंगे मेरी इस बात के, कि उन्हें भी
इस तरह का अनुभव आया होगा, अनेक राज्यों में और इसीलिए यह बहुत बार आलोचना के स्वर ऐसी संस्थाओं के खिलाफ सुनाई दी जाती है, जिनके ऊपर संविधान ने या पालियमेंट ने निगमित की किमिबेर्डारी काली है। पर पूरी तरह एक बयान आया, जिसमें मुझे थोड़ा विविधता और प्रतिभा किया कि सीएजी और सीडीसी जैसी संस्थाएं हमारे विकास में बाधक बन रही हैं। मैं आज इस मंच से इस बात को दर्ज कराना चाहूँगी कि ये सोच स्वस्थ सोच नहीं है। ये सोच लोकतंत्र के लिए धातक है क्योंकि हमारा तो पूरा का पूरा संविधान का प्रारूप चीक्स एंड वैल्सिस के आधार पर बना है। अंकुश और नियंत्रण, सार्वजनिक और निगमनी—ये लोकतंत्र को मजबूत करने के आधार होते हैं। हमारे संविधान निर्माताओं ने लिखा है कि हमारी नीकरशाही विधानिका के प्रति उत्तरदायी होगी। यानि कार्यात्मकता पालियमेंट के प्रति उत्तरदायी होगी और विधानिका पर अंकुश न्यायात्मकता रखेगी। इसीलिए संसद के सामने—उत्तरदायित्व निभाती है कार्यात्मकता और विधानिका से बने हुए बहुत—से कानून न्यायात्मकता निरस्त कर देती है। लेकिन अगर न्यायात्मकता भी जन—भावनाओं के विरोध में जाती है तो आम आदमी की प्रतिनिधि संस्था संसद बहुत बार उसे भी पटल देती है क्योंकि संविधान के अनुसार आखिरी शब्द इस देश की जनता के पास है।

“We the people of India give to ourselves this Constitution”.

इसलिए उस जनभावना के अनुसार शान्ति चलाने के लिए जरूरी है कि ये संवैधानिक संस्थाएं जिन पर जिमिबेर्डारी है, चाहे संसद के द्वारा, चाहे संविधान के द्वारा, हमारा लेखा—जोखा देखने की, हम पर निगमित करने की, इनको हम मजबूत से मजबूत करें। संस्थाओं का क्षण लोकतंत्र को कमजोर करेगा और इसलिए आज इस मौके पर मुझे लगता है कि पश्चात—प्रतिपक्ष में बंटे बिना हम लोग एक संकल्प करें कि अपने किसी भी कार्य से या अपने किसी भी बयान से हम इन संस्थाओं को कमजोर नहीं होने देंगे। मुझे लगता है कि हमारी जिमिबेर्डारी है एक देश के नायक या जिमिबेर्डारी है जन शाहीदों के प्रति जिन्होंने आज भारत हमें विरासत में देना और हमारी यह जिमिबेर्डारी है उस भावी पीढ़ी के प्रति, जिसे भ्रष्टाचार मुक्त देश देना हमारा कर्त्तव्य है और अगर हम इन संस्थाओं को मजबूत रखने तो भ्रष्टाचार विचित्र भारत अपनी भावी संस्थान को दे सकेंगे। इसी संकल्प के साथ में पुनः एक बार वीडीसी और इस संस्था को बचाई दें उसे, नूतनामानुपात दें उसे।

धन्यवाद |

English translation:

Most respected Rashtrapati ji, honourable Pradhan Mantri ji, honourable brother Kapil Sibal ji, honourable brother Narayanasamy ji, Shri Pradeep Kumar ji, Shri Ajit Seth ji, Shri Garg ji, Lokayuktas from other states and dear brothers and sisters.

At the outset, I congratulate and extend good wishes to the Central Vigilance Commission on the occasion of its 50th anniversary. Attaining 50 years, be it in one’s life or of an organization, is a time when one should introspect about what has been gained and lost. Just a while back, Pradeep Kumar ji mentioned that CVC was established in 1964 on the basis of a Resolution. It means that the organization functioned for forty years on the basis of a Resolution passed
by Parliament. In the year 2003, it was conferred statutory status. During that period, being a part of the government, I was involved in the entire process of framing the CVC Act. CVC was made multi-member through this Act. The Commission was made a multi-member Commission and it was entrusted with the superintendence over CBI and as was expected after the enactment of the Act, CVC felt a new energy in itself and started functioning with renewed enthusiasm. But, sometimes the proactive approach of oversight institutions is not appreciated by the Government, be it Central Government or State Government.

Many Lokyautkas present here would endorse my feelings that they have also got similar experiences in many states. And, thus, many times voices of criticism is heard against the institutions who have been entrusted with the responsibility of oversight by the Constitution or the Parliament. Recently a statement which disturbed me and made me a little concerned was that institutions like CAG and CVC are coming in the way of our growth. Today, on this occasion I would like to state that such thoughts are not healthy. Such thoughts are not good for democracy because our entire Constitution is based on the principle of checks and balances. Checks and control, alertness and oversight – these aspects strengthen democracy.

Our Constitution makers have written that Executive will be answerable to the Legislature, which means Executive will be answerable to the Parliament and Judiciary will have check over Legislature. Accordingly, the Executive is responsible to the Parliament and many laws which are made by the Legislature are set aside by the Judiciary. But, if Judiciary also goes against public sentiments, then the Parliament, the House of representatives of common man also many a times reverses it because as per Constitution, people have the last word. “We, the people of India, give to ourselves this Constitution”.

Hence, for carrying governance as per public sentiments, it is necessary that we should empower and strengthen the Constitutional bodies which have been entrusted responsibilities, whether by the Parliament or by the Constitution to check us and keep oversight on us. Deterioration of institutions would make the democracy weak and therefore today, on this occasion, I feel without distinguishing as ruling party or opposition, we should resolve that we shall not weaken these institutions by either any act or statement. I feel that it is our responsibility as a country to the martyrs who have given us a free India as our heritage, and also our responsibility towards our future generations to whom providing a corruption free country is our duty and if we keep these institutions strong then we shall be able to give a corruption free India to our future generations.

With this resolution, I once again congratulate CVC and extend best wishes to the organization. Thank you.
Speech by Shri Kapil Sibal, Minister for Communications & IT and Law & Justice

Hon’ble Rashtrapati Shri Pranab Mukherjee ji, Hon’ble Pradhan Mantri Dr. Manmohan Singh ji, respected Leader of the Opposition in Lok Sabha Sushma Swaraj ji, my colleague Minister of State Shri V. Narayanasamy ji, T K A Nair ji Advisor to the Prime Minister, Cabinet Secretary Ajit Seth Sahab, Central Vigilance Commissioner Pradeep Kumar ji, Vigilance Commissioner J.M. Garg Sahab, former CVCs, Constitutional Authorities, former Vigilance Commissioners, distinguished guests, my friends in the media, ladies and gentlemen.

First of all, I consider it a privilege to participate in the Golden Jubilee Celebrations of the Central Vigilance Commission. Sir, we are all aware of the young aspirational India that has emerged, an India that demands more effective and efficient governance, growth opportunities, and greater choices. Today issues of corruption of politicians and civil servants dominate in public discourse on governance.

Governments, both at the Centre and in the States, including the political establishment along with civil services have been widely viewed as corrupt and self-seeking. This notion of unfairness in justice and corruption is reinforced by the perception and interaction of the common man with the police constable on the street, the teacher at the government school, the village patwari and others.

The citizenry now wants public service delivery systems to be efficient and corruption free. We must concede that despite several anti-corruption laws, commissions of enquiry and high power vigilance bodies such as CVC and others, we have not been effective in preventing the slide in the overall integrity in public services. Timely enforcement, I believe is the key deterrence in combating corruption.

The Right to Information Act has been a great enabler and now the Lokayukta and Lokpal Act along with a number of other bills such as Whistle Blower Protection Bill alongwith others introduced in the Parliament should give a further fillip to battling corruption. However, by themselves laws are not enough. We have to minimize opportunities for corruption through better administrative procedures, checks and balances, use of Technology and IT and greater transparency. The Central Vigilance Commission in its fifty years of existence has contributed enormously in eradicating corruption in the machinery of governments through its power and conducting direct enquiries.

Over the years, CVC has relentlessly endeavoured to establish transparency, fairness and integrity in public administration. Today’s stamp release is a fitting tribute to the purposeful journey of the CVC as we celebrate this journey and look forward to the future. It is vital to honour the past that brought us to this day.
We are therefore making the seminar the contribution of honouring the CVC in bringing transparency and accountability in public administration by issuing a commemorative postage stamp.

May I now request the Hon’ble Rashtrapati ji to kindly release the commemorative postal stamp on the CVC.

Jai Hind

Speech by Dr Manmohan Singh, Prime Minister of India

I am delighted to participate in the Golden Jubilee celebrations of the Central Vigilance Commission, or the CVC as it is commonly known. The CVC is a very important part of the institutional framework for fighting corruption and ensuring probity, transparency and accountability in the work and conduct of public servants. Ever since it was established 50 years back, it has served our country with distinction. I compliment the CVC for its outstanding record.

The past 50 years have witnessed an increase in the scope and complexity of the work of the CVC. When it was set up in 1964 by an executive order, it was expected to monitor all vigilance activities in the Central Government and advise Central Government organizations in planning, executing, reviewing and reforming their vigilance work. Later, in pursuance of the judgment of the Supreme Court in the Vineet Narain case, it was accorded statutory status and superintendence of investigation of corruption cases by the CBI was added to its responsibilities. The Central Vigilance Commissioner was also given a major role in the selection of Director and other senior officers of the CBI. More recently, the responsibility of protecting whistle blowers has been entrusted to the CVC. And very recently, the coming into force of the Lokpal and Lokayuktas Act has added to the charter of the Commission’s responsibilities like preliminary enquiries on matters referred to it by the Lokpal and action against those making false and vexatious complaints. It has also enlarged the jurisdiction of the CVC to cover Group B, C and D employees of the Central Government in cases referred to it by the Lokpal. This widening of scope of the work of the CVC over the years has also been accompanied by increasing complexity, as public policy formulation and implementation have become more and more complex with the passage of time.

In fact, it is not only the CVC but the whole institutional set up for fighting corruption that has undergone a transformation with the passage of time. This process of change has particularly picked up in the last 10 years. New laws have been enacted to ensure probity, transparency and accountability in administration. The Right to Information Act and the Lokpal and Lokayuktas Act are major examples. A number of new laws are under consideration of Parliament. These
include the Right of Citizens for the Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, the Public Procurement Bill and a Bill to amend the Prevention of Corruption Act. These legislative initiatives have been accompanied by administrative steps in the same direction. Greater use of Information and Communications Technology has also helped in increasing transparency and reducing opportunities for corrupt practices.

The last few years have also seen a very vigorous debate on corruption in our country, with civil society and media being active participants. As I have said earlier, I believe this debate has been on the whole for the good. It has led not only to increased awareness in the people about their rights and the responsibilities of public authorities but also a realization in public authorities of the heightened expectation that our people have from them.

The agenda of this conference covers all these developments. In fact, it is a vast agenda that is before you - from the effectiveness of the legal and institutional frameworks for fighting corruption to the use of Information and Communications Technology, from the role of investigating agencies to the role of media and civil society, from autonomy and accountability of investigating agencies to electoral reforms and political accountability. The conference also brings together men and women of distinction from diverse fields - Government, public and private sectors, media, law and academics. I am sure that the discussions that follow will be stimulating and of great benefit to the participants, and will also contribute towards strengthening our efforts for fighting corruption. On my part, I would like to briefly mention some broad issues which I believe are of abiding importance in our anti-corruption initiatives. I have stressed on some of these issues on earlier occasions as well, but I think they are well worth repeating.

It is important to remember that the ultimate aim of any anti-corruption mechanism is to contribute towards improvement of the processes of governance and delivery of services. This can happen only when we encourage bold and innovative decision making. Therefore, we must make sure that honest officers are not harassed for bonafide mistakes that they might make while taking well-meaning decisions. At the time of establishment of the CVC, the then Prime Minister Shri Lal Bahadur Shastri had observed that the Commission was to be a fearless champion of the man of integrity and source of terror to corrupt officers. We must ensure the championing of the cause of the man of integrity in all our institutions. In a scenario in which this does not happen, decision making would suffer badly and instead of improving the processes of governance, we would end up stifling them.

Maintaining this balance necessarily involves a high degree of expertise in analysing and scrutinizing complex decisions pertaining to policy formulation and implementation. This points to the need for greater professional expertise in diverse fields in agencies like the CVC.
and the CBI. Such agencies would perhaps do well in also inducting officers from expert organizations.

Another balance that agencies like the CVC ought to maintain is between the need to be careful and detailed and the need for speed. Matters like disciplinary proceedings and grant of vigilance clearance must be disposed of in time. Excessive delays make such exercises meaningless.

There is a need for moderation in the public debate about corruption as well. In the past few years, we have been witnessing a very vigorous public debate in our country on matters relating to corruption, with accusations flying thick and fast. While informed discussion on such matters is certainly desirable, much too often we see a trivialisation of complex public policy issues. This is accompanied by unwarranted condemnation of the decisions taken and imputation of guilt and malafide on the part of those who took those decisions. I sincerely think there is a need to change this state of affairs.

Autonomy of investigating agencies is a subject on which I have spoken earlier as well. Investigating agencies have always enjoyed complete autonomy in investigation of criminal cases. Our Government has also been willing to do more to insulate the CBI from extraneous influences. However, it is also necessary to ensure that the political executive exercises the oversight that it is expected to in a democratic polity over any investigating agency.

These are the few brief thoughts that I wish to share with you. I am sure that the distinguished men and women who are participating in this conference will examine these and other such matters in much greater detail. I wish you very productive deliberations. I also wish the CVC all success in the future.

**Inaugural Speech by Shri Pranab Mukherjee, Hon'ble President of India**

I am happy to inaugurate this seminar being organized on the occasion of the Golden Jubilee of the Central Vigilance Commission (CVC). I congratulate all Central Vigilance Commissioners, past and present as well as staff who have worked for the CVC over the years, for their commendable service to the nation. It is fitting that the Department of Posts has decided to release a stamp on this important occasion. I also commend the CVC for bringing out a Coffee Table Book on the occasion.

The CVC was first constituted by the Government of India through a Resolution in the year 1964, following a debate in the Parliament in June, 1962. Members of Parliament expressed concern over corruption in public administration and sought remedial measures. Consequently, the then Home Minister Shri Lal Bahadur Shastri set up a Committee to look into the matter under the Chairmanship of Shri K. Santhanam, Member of Parliament.
The Santhanam Committee identified four major causes of corruption. They were:

(i) Administrative delays,

(ii) Government taking upon itself more than what it could manage by way of regulatory functions,

(iii) Scope for personal discretion in the exercise of powers vested in different categories of Government servants, and

(iv) Cumbersome procedures in dealing with various matters which were of importance to citizens in their day to day affairs.

The sad reality is that none of these problems have gone away. Fifty years later, they continue to plague our governance system.

The CVC was the result of the Santhanam Committee’s recommendation that an apex body be set up for exercising general superintendence over vigilance administration in Government. Over the years, successive Governments have progressively strengthened the institutional framework for addressing corruption with the establishment of the Central Bureau of Investigation, the Directorate of Enforcement, State Anti-Corruption agencies and Lokayuktas. The legal framework was also expanded with the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act, 2002 etc. supplementing the Indian Penal Code and the Criminal Procedure Code. Further, transparent policies of recruitment and promotion were drawn up. Elaborate conduct rules have been established to promote integrity in public services. The Supreme Court and High Courts have also, through public interest litigation, contributed to the battle against nepotism and corruption. As the Prime Minister mentioned, Vineet Narain case was a landmark judgement in this regard.

The land mark Right to Information Act, 2005 ushered in a new era of transparency and accountability in governance. Further, the enactment of the Lokpal Act, 2013 marks a major step forward in strengthening the institutional framework for addressing corruption. Our Prime Minister has spoken about several other legislations pending before Parliament. Once enacted, they will add to the formidable array of measures in place to address corruption.

Friends, while there has been no let-up in our national efforts to root out corruption, we have to acknowledge our limited success in this regard. Corruption remains a major stumbling block in the progress of our nation. It has increased transaction costs, reduced efficiency of public services, distorted decision making processes and undermined the moral fibre of our society. Corruption has reinforced inequities and limited access to public services by the common man, especially the poor.
Ladies and Gentlemen,

We have all been witness to the huge public outcry over corruption in recent times. The air is thick with despair and cynicism. There is urgent need to restore the faith of our people in our governance system and the credibility of our institutions. Introducing in Parliament the Resolution for establishing the CVC, Shri Lal Bahadur Shastri observed, and I quote, “Stamping out corruption is a very tough job, but I say so in all seriousness that we would be failing in our duty if we do not tackle this problem seriously and with determination”. The fact that corruption has proved to be intractable should not make us lose confidence in our abilities to address this problem. As Shastriji said, this is our duty and we must confront the challenge head on. Let us redouble our efforts and address corruption on a war-footing. The CVC has an important role to play in this regard.

The Central Vigilance Commission Act, 2003 provides extensive powers to the CVC, including reviewing progress of applications pending with competent authorities for sanction of prosecution and exercising superintendence over vigilance administrations of various Central Government Ministries, Departments and organizations. The CVC has powers to protect ‘Whistle Blowers’ under the Public Interest Disclosure Resolution, 2004. The CVC is principal advisor to the Government on all matters relating to vigilance administration and is required to conduct vigilance audits of various systems and procedures in organizations as well as assist managements establish effective internal control systems and procedures. The CVC must re-energise itself and pro-actively lead the charge against corruption.

While corruption is a global phenomenon, rapidly growing developing countries like India face a particularly difficult challenge. Ensuring sustainable growth, eliminating poverty, raising the quality of life, promoting industrialization, providing jobs etc. require quick decision making by the Executive. If the Executive has to deliver results and demonstrate efficient governance, it needs to have substantial financial powers. At the same time, provision of such financial powers and administrative discretion in governance gives rise to opportunities for nepotism and corruption.

The CVC must expeditiously investigate all allegations of corruption without fear or favour. It must, at the same time ensure that vilification campaigns to destroy reputations and careers are not carried out in the name of checking corruption. The CVC should be an ally to good governance and facilitate speedy, responsible and bold decision making in the interests of the country. Members of the CVC and its staff must also set an example by maintaining the highest standards of probity in the discharge of their functions.

I compliment the CVC for having chosen as the theme of today’s seminar the role of Accountability Institutions, Investigating Agencies, Civil Society and Media. As has been seen in recent times, civil society and media, especially the ‘new’ media, can be initiators of positive change as well as force multipliers.
The CVC has in the past introduced many innovations such as e-procurement, reverse auction by leveraging technology, integrity pacts, independent external monitors etc. I hope this seminar will help the CVC evolve many more such instruments and explore new dimensions in our fight against corruption.

As I have said elsewhere, corruption is a cancer that erodes our democracy and weakens the foundations of our state. A large number opinion polls and surveys reveal that corruption is among the foremost concerns of our citizens. We must engage in serious introspection on how both, ‘petty’ corruption which affects the public at large and ‘grand’ corruption involving the higher echelons of government can be eliminated.

I call upon the CVC to lead the way in cleansing our Government and contribute to reversing the cynicism of public towards Government functionaries. I am confident the CVC will continue to function as a strong and effective body, making useful contributions to enhancing probity in governance and checking corruption as well as mal-administration.

I extend my best wishes for the success of the seminar and all other future activities of CVC.

Thank you.

Jai Hind

Vote of thanks - Shri J M Garg, Vigilance Commissioner

Respected President of India, Respected Prime Minister, Respected Minister for Telecommunications & IT and Law & Justice, Respected Leader of Opposition in Lok Sabha, Respected Minister of State in PMO, Personnel, Public Grievances & Pensions, Advisor to Prime Minister, Cabinet Secretary, Central Vigilance Commissioner, Former Central Vigilance Commissioners & Vigilance Commissioners, Senior Officers of Govt of India & State Governments, Friends from Print & Electronic Media, Ladies & Gentlemen

It is indeed a great honour and privilege for me to propose a vote of thanks on the occasion of the Golden Jubilee Celebrations of the Central Vigilance Commission. On behalf of the Commission, I am extremely grateful to the Hon’ble President of India Shri Pranab Mukherjee for having accepted our invitation to inaugurate the celebrations. Your gracious presence, Sir, in today’s function and words of encouragement is a source of great inspiration for all of us. It is a testimony of Government of India’s deep commitment to strengthen the role of accountability institutions, investigating agencies, civil society and media in combating corruption. Graft in any form erodes the moral fibre of society. It undermines rule of law, impedes growth, interferes in the judicial process and results in social unrest. We owe to our country, especially young and aspiring Indians, to provide corruption free environment.
I assure you, Sir, that CVC will re-work its strategies and come out with a vision to meet the emerging challenges and will contribute immensely in realising every Indian’s dream of a corruption free India.

We are extremely grateful to the Respected Prime Minister of India, Shri Manmohan Singh ji for his esteemed presence and words of appreciation. His able guidance and unstinted support in strengthening the frameworks for combating corruption in India has always been a source of inspiration to us. I thank him for his keen interest, commitment and continued support.

I thank the Respected Minister of Communications & IT and Law & Justice, Shri Kapil Sibal ji for his support and also for his help in releasing a postal stamp on this occasion.

I also convey my heartfelt thanks to the Respected Leader of Opposition in Lok Sabha, Smt Sushma Swaraj ji, for her stewardship, vision and commitment for combating corruption. Madam, your valuable contribution, guidance and encouragement in the steps to be taken for fighting corruption has given a new impetus to the ongoing fight against corruption.

I am extremely thankful to the Minister of State in PMO and Personnel, Public Grievances & Pensions, Shri V Narayanasamy ji for his continued support and guidance.

I am also grateful to the Adviser to Prime Minister, Shri T K A Nair and the Cabinet Secretary, Shri Ajit Seth for their participation in the event.

I thank the Department of Posts for bringing out the commemorative stamp on the occasion. I would also complement M/s. Academic Foundation for bringing out the Coffee Table Book.

I would like to thank all our honoured guests, the former Central Vigilance Commissioners and Vigilance Commissioners, senior officers of Govt of India and State Governments, Chiefs of Central PSUs, Banks, Insurance Companies, Chief Vigilance Officers. My special thanks to delegates from Print & Electronic Media for their presence and participation and Doordarshan for its unstinted support in our endeavours. I thank you all for being with us today and encouraging us in our untiring efforts in combating corruption under the umbrella of CVC.

I would be failing in my duties if I do not thank the officers and staff of the Commission for their dedication and efforts in organising this function.

Thanks are due to CVOs and other staff of many organisations who have assisted the Commission in organising this function successfully. I also thank the management of Vigyan Bhawan for making excellent arrangements for the function.

I thank you all for your attendance.
PLENARY I

STRENGTHENING FRAMEWORKS FOR IMPROVING THE ANTI-CORRUPTION CLIMATE IN INDIA

• Strengthening legislative, institutional and legal frameworks
• United Nations Convention Against Corruption (UNCAC) – Compliance
• Synchronizing efforts of anti-corruption agencies at Central and State Government levels
• Ensuring Judicial Accountability
• Addressing issues of Autonomy and Accountability
• Strengthening frameworks for International Cooperation
PANELISTS

Chair: Shri Kapil Sibal
Minister for Communications & IT
And Law & Justice

Speakers:
(i) Dr. Jayaprakash Narayan
Activist
(ii) Prof. (Dr) R Venkata Rao
Vice Chancellor, NLSIU, Bengaluru
(iii) Dr. S.K. Sarkar
Secretary, Department of Personnel and Training, GoI

COMPERES
Shri Munish Jolly, EIL
Shri Harish Awal, ONGC

RAPPORTEURS
Shri R.K. Singhal, SAIL
Shri S P S Jaggi, SAIL
STRENGTHENING FRAMEWORKS FOR IMPROVING THE ANTI-CORRUPTION CLIMATE IN INDIA

Introductory Remarks by Shri Kapil Sibal, Minister for Communications & IT and Law & Justice

Good Afternoon. First of all, it’s a privilege to be with you this afternoon.

Before I talk on the substantive issue we wish to debate, let me just set out the format. I will make some introductory remarks in the beginning, then I will request, in the order in which the names have been assigned, the panelists of the distinguished panel to make their contribution to this seminar. As we are late by 15-20 minutes, I would request for speaking for not more than 7-8 minutes so that we leave some time for some questions from the audience in order to finish by 1.30 pm. So that’s what the format is going to be. I will start off with my introductory remarks.

Corruption is a real issue not just in India but in the rest of the world as well. But the level and quality differs from country to country. We have been trying over the years, especially in India after the process of liberalization started in 1991, to put in place a legal framework which allows institutions, whether they are investigating agencies or the judiciary or government, to function in a manner which brings about accountability in the process of their functioning and in that context we have passed several laws to give autonomy to investigating agencies.

The CVC is an example. We brought amendments in the Delhi Police Special Establishment Act, to give greater autonomy. We have just passed the Lokpal Bill and Lokayukta Bill, which is a bill that has been formulated within the Lokpal, needs to be passed by all the State Governments. It is yet to be passed by some State Governments. If all of them pass the Bill, all of us will have a uniform framework around the country to deal with the issue of corruption. Different States have passed their different Lokayukta Bills and unfortunately the provisions in various States are quite different. While under the Lokpal the appointment procedure of the Lokpal is very transparent, unfortunately in several states, it’s the Chief Ministers themselves that appoint the Lokayuktas and the Lokayukats are directly accountable to the Chief Ministers. In many of the laws that have been passed in the States, the Lokayukta on the basis of his report cannot take any action on his own. He has to report to the Chief Minister or to the government who in turn decides whether or not to launch prosecution. So there is a great mismatch between what is happening at the level of the Central Government and what is happening at the level of the State Governments.
and what is happening in the States and, therefore, you need to strengthen legal institutional frameworks if you really want the legal framework to be effective in combating corruption.

We are also committed internationally by becoming signatory to the United Nations Convention against corruption and we need to comply with the provisions of that Convention. Dr. Sarkar will be addressing this issue during the course of his interaction.

Then, of course, we need to synchronize efforts for anti-corruption agencies both at the Central Government level and State Governments levels. That synchronization, I believe, can only take place if we enhance the use of technology and allow free information to flow on issues relating to corruption between state agencies and central agencies.

In fact, I do believe that one of the most effective ways of moving forward is to introduce Information Technology in the processes of investigation and also in the processes of decision making and that will allow free flow of information between agencies and also central and state governments.

One of the great causes, and being a lawyer I have some experience in this, is that in matters of investigation, the problem of corruption we face is of enormous human discretion in the hands of the investigating agency in the course of investigation. You have the daily diary in the hands of a police constable. You have statements being recorded orally and then penned down in writing which may not be admissible but they are considered as previous statements of the accused and the whole process of conducting investigation is all very discretionary. Unless we ensure that these processes are imbued with information technology, we will continue to have the human element of discretion involved in investigation and that’s really the root cause of corruption. Therefore, what we need to do is to make sure that the daily diaries are digital diaries and we need to make sure that every time the daily diary which is a digital diary is filled up the evidence which is imbedded in the software cannot be changed. Your mobiles should be used as an instrument of investigation and every time the constable goes the site of incident it should be video-graphed and there should be direct connect with the forensic laboratory and directions can be given to the investigating agencies to take the samples there and then and the statements that are recorded must be video recorded and imbedded through the software that cannot be changed. If you take away human discretion in the hands of the investigating agency through the processes of Information Technology you will in fact deal with the root cause of corruption because by the time the case comes to court, the real accused is absent and those who are charged either for corruption or for any other crime are made the accused. Therefore, the court has no element of discretion involved because the court goes by the evidence that is on record. So, I think we have not yet been able to see the national commitment on use of ICT procedures in dealing with issues of corruption and crimes in general.
Then you have the problem of judicial accountability. There is widespread belief today that there is corruption in the judiciary as well. But the processes of accountability within the judiciary are exceptionally weak and they are also discretionary in nature. The subordinate judiciaries are under the direct control of the High Court and the Administrative Judge of a High Court decides who is to be investigated and who is not to be investigated and that is purely discretionary.

The processes of investigations are also exceptionally weak. Some institutional frameworks are needed there as well to ensure that there is accountability within the subordinate judiciary. When you come to the higher judiciary, while Supreme Court has made Members of Parliament accountable which, I think, is a very good thing when it came to the higher judiciary, the Supreme Court in the same judgment said that unless prior sanction is taken from the Chief Justice of India for prosecuting a judge of the High Court or the Supreme Court no prosecution can be lodged. In fact, no process of investigation can be lodged unless you take the prior sanction of the Chief Justice of the Supreme Court of India. That also involves an element of human discretion. While there is a movement to do away with the sanction even for officers beyond the Joint Secretary, which is a single directive, when it comes to the judiciary there, is no directive, far from there being a single directive. Unless the Chief Justice of India, in his individual capacity, grants sanction there can be no process of investigation. Therefore, you see very few instances of people being brought to book. I think an important issue that we need to confront ourselves is that of judicial accountability.

Then there is the larger issue of autonomy of institutions and accountability of institutions. While there is a lot of noise outside that there should be complete autonomy, I don’t think, personally, that any institution in this country, no matter where it is, should have complete autonomy. In fact, there is no such thing conceptually as “complete autonomy”. Absolute autonomy means power in the hands of an individual and institution without that institution or individual being accountable. So my personal belief is that no matter how much autonomy we give to the institutions, there must be an element of accountability. The most autonomous institutions too must be accountable; who they should be accountable to can be a matter of debate. That is something we need to discuss. That they should be accountable, I don’t think should be or can be a matter of debate.

The other thing is that in matters of corruption, there are huge movements of currencies. Movement of currencies occur beyond territorial boundaries and therefore, you need to forge alliances with investigating agencies across borders to monitor actual movement of these currencies to deal with the ultimate beneficiaries of the corruption and that involves a greater collaboration with investigating agencies outside India. Some movement has been
made towards that by our Government. But I think that what has been done is not enough. We need to actually set up an international collaborative process. Institutionalize it so that we consistently get information of the kind of aberrations that are taking place under which beneficiaries of corrupt transactions located outside India get away very easily. There is a movement within the international community actually to identify those processes and put those processes in place and we are supportive of that.

These are broadly some of the issues that I just wanted to bring before you as we move forward into the seminar. I would now request Dr. Jayaprakash Narayan, Activist to make his contribution.

Remarks by Dr. Jayaprakash Narayan, Activist

Friends, this is an extremely eminent gathering with rich experience and expertise in handling issues of probity in public life. Therefore, I have to be very careful and try not to put my foot in the mouth.

Socrates was asked by one of his disciples one day. “Master, for 20 years, I never uttered a word in your presence and only listened to you and other friends of mine discoursing. Was it good or was it bad?” The great philosopher that he was, Socrates, I believe said “If you are a wise man, then you were a fool. If you were a fool, then you are a wise man”. It took me sometime me to decipher what he said. He said that if you are a wise man, and if what you say is of consequence to fellow human beings, then you are a fool in having concealed your wisdom but if you are a fool anyway you were a very wise fellow in having concealed your ignorance. Chairman, I will try to conceal my ignorance and state a few things succinctly and hopefully be very provocative because otherwise the anodyne statement of probity will not really take us far.

A common point of departure when you discuss corruption in this country is one of values. Somehow “satyanas ho gaya” and Indian society is declining in values and things were wonderful earlier and so on and so forth. I want to emphatically dispel this myth. Corruption is not a function of values; it’s a function of institutions and incentives. Values do not decline, fashions do and we often confuse between the two. Every generation thinks that the next generation is useless and we were all wonderful.

Gladstone once defined the purpose of the Government in a most erudite and succinct manner. He said the purpose of a Government is to make it easy for people to do good and difficult to do evil. If human beings are full of values, anyway, you do not require government. It does not require government, society or institutions. So, it is absurd to say of those of us who as business entities are trying to improve the quality of life in this country. It is absurd to
say that the values have declined and, therefore, things are bad. That means we are finding an 
alibi for non-performance. I know I have been very provocative but that is the purpose of my 
presentation to try and provoke some serious debate in this pre-lunch hour.

The second is, the moment we talk of CVC or CBI or ACB or any other organization, we 
talk about punishment. There is no question about it but much more than punishment what 
is required is a system of incentives and rewards which is where we have singularly failed in 
this country in all branches of government, in politics, in bureaucracy, in judiciary everywhere. 
The Chairman mentioned briefly something about judiciary. That is true everywhere in the 
country. Therefore, there has to be preventive vigilance rather than punitive alone.

The next is the distinction that my friend who is going to be a panellist here, Dr. Samuel 
Paul, brought out very sharply some 16-17 years ago. The distinction between extortionary 
corruption and collusive corruption, petty corruption and the grand corruption, is often 
missed in this country. Millions of Indians, and I suspect many of us in this room, directly or 
indirectly, were compelled to bribe somebody or the other to get a small thing done which is 
a matter of entitlement for us.

Because of time, I am not going recount a hilarious yet tragic story of what happened to 
a Cabinet Secretary and an External Affairs Secretary. Shri Deshmukh, the then Cabinet 
Secretary he actually told me this story. I don’t want to get into details as we all know umpteen 
numbers of stories.

Extortionary corruption is something where the citizen is helpless. Every serious student of 
corruption in this country must study Robert Wade. Some 35 years before he came out with 
his seminal study of corruption in India, he talked about extortionary corruption in substantial 
measure. He talked about what you call dangerously stable equilibrium. Every element of 
society, from the decision maker, to the consumer citizen has become a victim of this vicious 
cycle and if an individual tries to come out of this the price he pays is much greater than 
the benefit which accrues to him. Unless this cycle is altered, our fulmination will not yield 
adequate returns. One of the reasons why we have failed in combating corruption is that we 
have not understood how to break this cycle and wherever actually we have ended corruption 
or substantially reduced corruption it is because either unwittingly or by design we actually 
ended this. So there is a dangerously stable equilibrium and extortionary corruption that really 
hurts everybody and therefore there is so much anger on the streets of this country.

Collusive corruption is different and, though there was a brief mention I am glad to note 
from the Central Vigilance Commissioner that finally the Parliamentary Committee realized 
that in case of extortionary corruption the bribe giver must not be taken as a criminal. The 
Minister, Shri Narayanasamy made this point. It’s a very dangerous thing to make a bribe giver
in extortionary corruption a criminal. You are criminalizing the whole society and you are completely deflating the society undermining the morale. That’s not the way to go forward. It’s absurd. I am glad the Parliamentary Committee made that point and I would request the Law Minister here to please consider it.

Then, of course, there is whole issue of liberalization. Many of our leftist friends say that there was no real corruption before 1991. Honey was flowing, India was fantastic and post 1991, thanks to Dr. Manmohan Singh, thanks to economic reforms, there is corruption. Nothing can be farther from the truth. We all know it but this is to state emphatically that where corruption remains and is going, is where we have not liberalized, where we have not allowed competition and choice. The Santhanam Committee came not during the liberalization regime but during the 1960s and thereafter umpteen number of committees and commissions. Therefore, this myth must be dispelled emphatically.

Liberalization, competition, choice are the ways to combat corruption. They are not the cause of corruption. If residual corruption remains in substantial areas it is because we have not liberalized adequately. Telephone is a classic example. 20 years ago to get a telephone connection was a herculean task. Today millions of people have got telephones without any bribe because we liberalized, because there is competition and choice; transparency and technology.

The Service Guarantee Act is right now before the Parliament or the Ministry. I don’t know where it is, but if we actually ensure that delivery is there at the grass roots level much of the corruption can be ended. We have instruments, we know how they work. If we actually mean business, it can be done. But about competition and choice, just one word. In Britain, during Margaret Thatcher’s time many public utilities were privatised but they have discovered over the years there was no corruption at all. There was absolutely no allegation of corruption.

Certain utilities or certain private entities have made abnormal profits because of change in market conditions because of the normal monopolies. Now they put their heads together and came up with a brilliant answer, Windfall Profit Tax Act. We have been discussing only corruption in this country but it’s possible that once you transfer the natural resource to a private entity but because of changes in market conditions not because of investment or technology or brilliant management, great profits can be made. If you bring in Windfall Profit Tax and create a mechanism to assess the windfall profit and therefore the taxation, a share of tax for the state, a lot of problems could be addressed. We could discuss more in detail but I am just making a broader point because we have to look at the institutions, whether it is iron ore or coal mining or something else. This is the problem. Even when there was no corruption in our country because of the mess we created, there were, of course, all kinds of allegations and there was no real competition. In addition to competition we require another safeguard that is the Windfall Profit Tax.
I would like to make brief mention of the multiplicity of agencies, Regulatory agencies or Commissions. Sushma Swaraj was here this morning and I don’t know if she is here now. I was the one who primarily drafted that portion of the Right to Information Act and the Right to Information Commission. I wanted it to be high powered one, actually the Chief Justice to be a member, and then the Prime Minister said that we already have some difficulty with judiciary and then we agreed with that. Now I am actually regretting it because that became a template now for every law that you are clearing. You have now a Service Guarantee Law, one Commission. You have an Electronic Service Delivery law, another Commission!

I don’t know if these two are integrated. I have been dreading that. Lutyens’ Delhi is now going to be littered with all kinds of independent Commissions. We don’t require multiplicities. We require convergence. In my judgment, Right to Information Act could well deal with many other functions, like grievance redressal and your service guarantee and so on and so forth. For heaven’s sake, let’s not create too many havens for retired public servants in our desire to serve the public. People require convergence. I know, this will be unpopular particularly in this gathering but I have to say with all emphasis at my command, we are undermining institutions by creating too many. Build a few institutions but build them well and design them well.

Another unpopular thing is about local governments. The Finance Commission is transferring annually about four hundred and fifty thousand crores of rupees to the states as part of the constitutional measures. If, let us say, 1/3rd of that money directly goes to the local governments, it is a very substantial chunk. As locally as possible, you create a local Ombudsman to see that expenditure of that money is properly monitored. You can get something about per capita of Rs. 2000 at the local level. You can see a dramatic change in the way things are happening.

There is so much of dissatisfaction, anger and corruption at the grass root level in the city or the village that it is impossible to really hold people down. Even people who are civil servants or politicians who want to retire from public office. You go out and settle down in a city or village, you see that almost nothing happens. Even for the smallest things you have to go to the local MLA or MP or somebody else and then corruption, delay, and anger. Everything is mounting.

Therefore, as a part of the anti-corruption mechanism, we have to transfer resources to the local level for simple things and yet have to build instruments of accountability like a local Ombudsman. Had you done that in the State of J&K after local elections in 2011, when 78% of the people voted, which is a remarkable thing in Kashmir, by now probably the Kashmir problem would be a thing of the past but, unfortunately we failed to do so, and I hope things will not really go out of control, if the problem is not resolved.
Chairman, I want to make two points before I conclude. I will not say anything about Lokpal or Lokayukta and so on and so forth but the point the Chairman has already made about autonomy of agencies whether CBI or ACB or some other agency. We have to ensure that autonomy, integrity, competence and accountability go together. There cannot be autonomy without integrity, competence and accountability.

A very wise man long ago when I was arguing fiercely about autonomy of anti-corruption but about all types of investigations, advised me. He said Dr. Jayaprakash, please remember, ours is a system of compensatory errors. I loved the expression “compensatory errors”. The errors of one agency or individual are set right by the errors and distortions of another agency or individual. If you want to eliminate one set of errors, please make sure that there is a mechanism to deal with another set of errors, otherwise you are creating actually more problems than you are solving. It was a wise admonish and that’s the point the chair made.

The last point, Chairman, is that in all this, we have to look at the political system. Today we all know that phenomenal money power drives elections and as a consequence corruption is rampant post-election. Freebies are offered in order to garner the vote in every state. I mean all kinds of freebies. I don’t have to mention to you. Division of society is fostered in order to maximize the vote. These have become the staple of electoral politics in the country.

In such a climate, no matter what we do, the demand side of corruption continues to grow and, therefore, we have to address the political system. One way is saying that all politicians are bad, which is a ridiculous thing. The other way is to understand the problem in a society like ours; poor, largely illiterate, extraordinarily diverse, very ancient. The electoral system is not really suited to our conditions. Once you have the “first past the post system”, in order to get the marginal votes because of high threshold requirement, even if you want to stay away from money power, when your rivals distribute money it becomes difficult for you, if you are competing seriously in the election, to stay away from money power, distribution of money or liquor. Even if you want to stay away from freebies, you will then marginalize yourself in electoral politics and electoral politics is about winning, it’s not about losing to make a point. Again, divisions can be on the basis of caste, region or religion or whatever, and in this country there are plenty of opportunities. You see in Rajasthan, the Gujjars versus Meenas, in Andhra Pradesh today, Andhra versus Telangana and you see Hindu versus Muslims or versus Christians or whatever. So, it’s so easy to format these things, unless we move towards a more sensible system with a reasonable threshold in proportion to the present political system which does not require this terrible desperation to spend phenomenal amounts of money. In some states it is about 30-40-50 crores of rupees for a Lok Sabha election. Unless you take away the desperate need to divide people or to offer freebies, we will continue to languish. Therefore, we have to look at an alternate electoral system.
Finally Chairman, cynicism is not warranted. Despite everything else, I believe things are actually improving in the country. Not as fast as we want, not as much we hope, but they are improving and if we set our minds together, I am sure we can improve a great deal. There are many innovative instruments. One of them I will mention in 30 seconds to conclude. An instrument called False Claims Act is in the United States. Any citizen of the United States can file a claim against a supplier of a service or a good to the federal government in a federal court on the ground that there is a loss sustained. For instance, the law there says that the Government must be the most preferred customer. Even if you are the L1 in the tendering process, the price you charge cannot be higher than what you charge to your best customer and even after that if there is some loss sustained and if you establish that loss, the federal court is empowered, through a summary process to impose a penalty up to five times the loss sustained. The fellow who goes to court gets some incentive to do so. In the past, about 15 years ago, 28 million dollars was collected as penalties by way of this False Claims Act. We can have innovative instruments where we can make the people of India at large fight against corruption. I hope we will look at it in some way.

Thank you!

**Remarks by Professor (Dr.) Venkata Rao, Vice Chancellor, NLSUI, Bengaluru**

Chairman, I am conscious of your caveat of seven minutes each, I have prepared a set of papers which I will be handing over to the Chairperson and Shri Pradeep Kumarji who can circulate it later.

Integrity is doing the right things even when nobody is watching. That must be kept in mind. In a democracy, the efforts of all of us should be to strengthen the functions of the institutions by criticizing their functions but not by destroying them. The institutional mechanisms always have a longer gestation period and their efforts may not be visible. In the long run their efforts would be better.

So the first thing that should be understood is any knee-jerk short term step would be counter-productive. As we are seeing in some parts of the country today knee-jerk reactions against corruption should be avoided at all costs and we must have faith in institutional mechanisms. Every quarter we have a demand for establishment of Lokpal or Lokayukta, but I have my own doubts about that because again you have the same bureaucratic intervention mechanism in Lokpal where you have top to bottom approach. If you would like to eradicate corruption, the approach should be from bottom to top and right centred.

What a great piece of legislation, the Right to Information Act is. It has a bottom to top approach and in some of the states the initiative has been taken in the form of Right to
Services Act which also focuses on a bottom to top approach. If a particular service is not provided within a stipulated time, it would almost amount to corruption. Therefore, time has now come for us to get away with this top to bottom approach and to shift to a bottom to top approach.

Last point I would like to submit is that our focus on corruption, unfortunately, is urban centric, middle class centric and public services centric without trying to understand what is happening in the land. Now, that is the reason why much of the corruption that takes place in rural services perhaps is beyond the public discourse and this constrictive approach has to be avoided. When we look at the concept of corruption, we must remember it is not resonating with the rural population not because they do not face corruption, but because they do not identify with the remedies. That is why the situation is alarming in some rural areas.

Therefore, any discourse on corruption and any discourse on the establishment of institutional mechanisms should make a shift from too much of urban centric discussion to a just and valid discourse on what is happening in the land. Otherwise, I am reminded of William Makepeace Thackeray’s poem on King Canute when he wanted to reverse the tides surrounded by a group of sycophants. Remember in our public life King Canute might have died but parasites still continue to remain. Therefore, let us be realistic and let us try to focus on institutional mechanisms which alone in the long term would provide an answer to corruption.

Thank you very much.

Remarks by Dr SK Sarkar, Secretary, Department of Personnel & Training

It is my privilege to share my thoughts at the Plenary Session on strengthening anti-corruption frameworks in India. I want to restrict my talk to compliance to UNCAC provisions and strengthening framework for international cooperation.

India recognizes that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation essential to UNCAC to prevent and control the same. Realizing this, India signed the UNCAC in 2005, and ratified the same in 2011. UNCAC which came into existence in 2003, is a unique global agreement providing for a wide range of measures to address corruption. India stands for a comprehensive strengthening of the regime established by the Convention and for ensuring compliance by all participating State parties with its provisions. The UNCAC provisions, inter alia, speak of Preventive measures, Criminalization and law enforcement, International cooperation, Asset recovery, Technical assistance and information exchange, and Mechanism for implementation.

The UNCAC review mechanism plays a special role in the international community’s efforts to fight corruption. Activities of the international and regional mechanism (such as FATF,
ADB/OECD Asia-Pacific Initiatives) complement in this direction. UNCAC mechanism is intergovernmental, non-politicized, non-intrusive, and it recognizes the leading role of the State being reviewed. India recently reviewed Republic of South Korea and Vanuatu under the UNCAC mechanism. India is being reviewed under UNCAC framework in 2014 by Uganda and Kazakhstan.

As stated earlier, India has a time tested legislative framework covering a range of areas which has passed judicial scrutiny. With the ratification of UNCAC, we have taken and will continue to undertake measures within our overall legal system to synchronize them with provisions of UNCAC.

Some of the legislative initiatives which conform to UNCAC provisions are; The Representation of People’s Act, IPC, CPC, Cr.PC, RTI Act, PC Act, Companies Act, PML Act, NIA Act, Banking Companies Act, Whistle-blowers Resolution, and Indian Extradition Act.

The cornerstone of the entire machinery for fighting corruption is the Indian judiciary. Its independence and fairness are well recognized throughout the world. The UNCAC establishes a wide range of international cooperation mechanism. It is necessary to make full use of them. India has been participating in various anti-corruption efforts at international level such as G-20, OECD, FATF, Review Groups of UNCAC and this need to be constantly pursued with.

India is a member of the International Anti-Corruption Academy (IACA) in Vienna and is looking forward to making larger contribution to the academic side to fight against corruption. The role of regional groups in anti-corruption matters under organized crime Convention has been stressed upon in a meeting of experts in Vienna in October 2012. India is a party to the SAARC Regional Convention on Suppression of Terrorism (1997) and Human Trafficking (2002). At the 15th Summit of SAARC, a convention of Mutual Legal Assistance in criminal matters was adopted which allows Member States to provide to each other the greatest measures of mutual assistance in criminal matters. India has concluded MLA treaties with 36 countries and 5 more treaties are under negotiation. India has constituted Joint Working Groups with 28 countries and regional organizations like the EU and BIMSTEC for coordinating and cooperating for counter terrorism and anti-drugs, trafficking efforts. India (CVC) is a member of IAACA, an initiative of anti-corruption agencies at global level.

The UNCAC rightly observed the need for cooperation between Government and business communities in combating corruption. Code of Conduct adopted by many industries in India is a right approach in this direction. There are other stakeholders in anti-corruption efforts such as NGOs, media. India is fully alive to the needs and to engage them in addressing various anti-corruption related issues.
There are 71 Articles under the UNCAC framework. Some are mandatory, some optional and some recommendatory. Given the current anti-corruption efforts, the state of compliance as regards provisions of UNCAC has increased than that in the past and with India’s review by external experts, this is expected to be enhanced. Compliance of UNCAC provision is dynamic in character, especially when India is being reviewed by other states parties continuously at regular intervals. This, however, poses a greater challenge to India while preparing the responses.

India recognizes that the threats posed by corruption affect India’s stability and security of societies, undermine the institutions and values of democracy, rupture ethical values and justice, and jeopardize sustainable development. Thus, India’s compliance to UNCAC provisions will help address these issues. India’s ratification to UNCAC has given the right signal to the international community that India is serious in combating corruption and even play an effective policy making role at international level in combating corruption. India’s participation at various international anti-corruption fora has been well appreciated. The G-20 Working Group on anti-corruption has also played a big role in anti-corruption efforts within the UNCAC framework, and India’s contribution has been well recognized.

In conclusion, I may add that in many areas of UNCAC framework, we also need to concentrate. For example, raising awareness among various stakeholders about UNCAC provisions is one of the key elements in this direction. Implementation of various anti-corruption related legislations in true spirit, strengthening various anti-corruption institutions, coordination and cooperation among various stakeholders at national and international levels are some areas we would be working with greater efforts in the coming years.

Finally, I thank the CVC for organizing this event and also inviting me to speak on this occasion.

Thank you
BREAKOUT SESSION - I

ROLE OF INVESTIGATING AGENCIES: ENSURING AUTONOMY WITH ACCOUNTABILITY

- Ensuring fairness, neutrality, objectivity & public trust in investigations.
- Augmenting the capacity of investigators and prosecutors.
- Ensuring time bound investigations & trials.
- Will greater institutional autonomy enhance efficiency & effectiveness of anti-corruption initiatives?
- Superintendence of CBI - Its independence and accountability.
**PANELISTS**

**Chair:** Justice A.P. Shah  
Chairman, Law Commission

**Speakers:**
(i) Shri Vinod Rai  
Former C&AG
(ii) Shri R. Sri Kumar  
Former Vigilance Commissioner, CVC
(iii) Shri Ranjit Sinha  
Director, CBI
(iv) Shri K.K. Venugopal  
Senior Advocate, Supreme Court

**COMPERES**

Ms. Sonal Singh, SAIL

**RAPPORTEURS**

Shri M.P. Singh, OIL
Shri Sudhanshu Sekhar Dash, OIL
BREAKOUT SESSION I:

ROLE OF INVESTIGATING AGENCIES–ENSURING AUTONOMY WITH ACCOUNTABILITY

Introductory Remarks by Justice A.P. Shah-Chairman, Law Commission

Good Morning, Ladies & Gentlemen

The topic of this session is “Role of investigating agencies: ensuring autonomy with accountability”. There are five sub heads under the subject - ensuring fairness, neutrality, objectivity and public trust in investigations; augmenting the capacity of investigators and prosecutors; ensuring time bound investigations and trials with greater institutional autonomy; enhanced efficiency and effectiveness of anti-corruption initiatives and superintendence of CBI for its independence and accountability. We have four very distinguished speakers. I will just make a few introductory remarks before I invite the distinguished speakers to give their views on the subject.

The conduct of the police is an important parameter of the state of governance and social health of the nation. Police plays a vital role in maintaining law and order as well as protection and promotion of human rights in a democratic country. The price that democracies pay for unreformed, unaccountable policing is very high. Overall human and national security is compromised in a global environment often prone to terror and insurgency within. Access to justice, already remote for many, is further distanced from the population at large. The rights of vulnerable people, vulnerable classes like women, children, minorities, refugees and the vast population of poor that inhabit our country go unrealized. Corruption, violence and fear thrive high and the rule of law remains an aspiration on paper.

We borrowed the system from the British. The whole criminal justice system is taken from the British model. Our Police Act 1861 was enacted in the wake of police uprising in 1857. The Statute was based on the para-military model and was also established by the British in other countries such as Ireland. The whole idea of this Act so enacted was not to promote the rule of law or to serve the community and ensuring accountability but rather to perpetuate the British rule. And thereafter with passage of time, the role of police was more identified with suppressing national freedom movements in 1920s and 30s. After independence, not many changes have taken place in the philosophy and norms of policing. And police remained principally an instrument of state power.

The people’s perception about the police is unfortunately very unsatisfactory. The police today have earned the notoriety of being one of the most dreaded public authorities that no common
man wishes to deal with, this is the reality. There are very fine police officers. There are very fine cases of fine investigations in this country, but overall perception about the police has not really changed. If you see broadly, I would put it in some five or six heads, what is wrong. This is generally a comment about the police force, not confining it only to the investigating role of the police, what is found generally in the conduct of the police force in this country. Frequently there is disobedience of procedure and laws; complaints of abuse of power, then more often, I mean poor persons without any official clout, become the victims of the police excesses; despite being forbidden, torture by the police is common place; then fake encounters, it's a phenomena in most of the states and slightly more excessive in some states like UP and other north Indian states. The corruption has percolated within the institution and police in a deep manner and bribe often decides the entire outcome of the case and its investigations.

I recall in this very hall, and Shri Vinod Rai was also present, when Shri Raghavan said that there are eleven thousand police stations in this country and hardly, you will find any police station, where a complaint will be registered without taking a bribe, so this is a very harsh reality. I am not saying that police is the only institution which has failed; there are other institutions which have also not fared in an exemplary way. The recent trend is very unfortunate and that is, sections of police are in link with anti-social elements. Perceived bias in law enforcement, rude behaviour and abusive language, contempt towards court and human rights are very frequent. There is a tendency to deride any plea of human rights. Police are either ignorant of percept of human rights or deliberately disregard them. So the main problem is, according to me, that we have as many as six Commissions established since 1971 for bringing Police Reforms and they have not addressed the real issues which are really affecting the police in India. These can be broadly done in 5 different topics or 5 different subjects.

First and the most important is unwarranted political interference and politically given appointments, transfers and promotions. Two functions performed by an overburdened police force thereby hindering efficiency. The police force has not increased proportionately to the population and in proportion to the rise in the crime. As a result, the police forces today are excessively burdened. The police personnel today would be doing some investigation, next day, some law and order work or some protection of VIPs. So really, these issues have not been addressed. Then, there is lack of genuine empowerment of the police personnel. There is no real attempt to empower them and lack of an independent body.

The Supreme Court, in Prakash Singh’s case, has stated that you must have a separate body, a Grievance Committee to look into the grievances of the people against the police. Some genuine grievances are there and they should be looked into by this body, because the court takes its own time. The cases take a number of years and the victim has to wait for that. The Human Right Commission’s record is also not very satisfactory as far as dealing with the
complaints against police personnel is concerned. If it is seen from the answers which are
given in Parliament, then the Human Rights Commission found thousands of cases where
the police fraternity had led to victimization of the people. In some cases, action has been
taken but the rate of conviction is very low and most importantly there is not one case against
the police in which Human Rights Commission has recommended any departmental action
against the erring police men. So today, the situation is that there is no forum for the redressal
of the grievances against the police. One of the directions in Prakash Singh’s case was to form
an independent oversight body. Unfortunately, in some states, it has been formed but in some
states, it is for the name sake, not performing really in the way it is expected to perform.

One of the subjects today is what should be or what the extent of political control of policing.
There is excessive controlling of the policing by the politicians or the political class. This has
obstructed the police from discharging their duties in accordance with the law. Transfers and
suspensions are two frequently used weapons by the politician to make the police officials act
according to their will. Another phenomenon which I noticed in the recent past, is the post
retirement assignments given to the police officers. In the olden days, nobody would have
heard of a police officer heading some organization to be nominated as a Governor of some
State, or as the Information Commissioner too, in several states. I am not saying that they
should not be there. My only worry about these assignments being granted to the police is also
the way in which the political class or the political executive would like to control the police.
So, in Lok Pal, there is a provision for cooling off period, i.e. for 2 years no assignment would
be given to the police man after his retirement. I think the time has come that it should be
made applicable. Not only that, I have seen the same thing about the Judges, and about the
other Government servants. There has to be some sort of cooling off period which would be
in the interest of all the institutions. I feel that a careful balance must be struck between
legitimate supervision of the police and political executives and illegitimate interferences and
influence.

I would just like to read one observation of Justice J. L. Kapoor. Justice J. L. Kapoor’s
Commission was set up in the wake of Mahatma Gandhi’s assassination and I would like to
quote his words, he said, “Directing the police on how to carry out its statutory duties or any
interference with the statutory duties of the police is foreign to the notions accepted in the
countries governed by the common law”. The Commission further said, in the opinion of the
Commission, although a Home Minister is in-charge of the Police and police administration
is answerable to the Parliament about it, still he has no power to direct the police on how
they should exercise their statutory powers, duties and discretion. Both under the Criminal
Procedures Code and under the Bombay Police Act, the statutory duty of the police is both to
prevent crime and bring criminals to justice. If the Minister had to give the orders about arrest
or not to arrest that would be against the rule of law and as stated by Shri K.M. Munshi this view of the law has received recognition by our courts in cases where the distinction is drawn between administrative control of the Government and its powers of interfering in statutory powers of various statutory authorities.

I am not even for a moment suggesting that the investigating agency should be completely free from the political establishment. They are answerable to the political executive. There is no doubt about it, but there are some areas where the political executive cannot interfere and there are some areas where it can and I think this was the very purpose of issuing the directives by the Supreme Court in Prakash Singh’s case. They said that first you formulate a State Security Commission and a Central Security Commission and that has not been constituted so far. Then there was a direction to form the PEB i.e. Police Establishment Board and the Police Complaints Authority. So what the Supreme Court’s order envisages is that there should be some fixity of term, say, 2 years and in that fixity of term, normally, the officers should not be transferred and all transfers, postings, promotions and other service related matters of police officers, below the rank of Deputy Superintendent of Police should be done by the Police Establishment Board. However, till today, directive in Prakash Singh’s case has not been implemented by the Government and a contempt petition has been pending for a long time.

Then, what is the freedom or independence or autonomy of the institutions? Whether the autonomy of the institutions means complete freedom or unbridled independence? These are the issues which will be discussed here and there are the other aspects. There is no coordination incidentally between the police and the prosecutors. There was the Supreme Court judgment which was delivered in 80s or I think in 90s where prosecution was separated from the police. I am of the personal view that we have to relook at that. Today, there is really no co-ordination between the police and prosecutors and as a result, in many cases the prosecution is not able to secure conviction.

These are some of the issues on which I have made just prima facie observations, which I felt very strongly about including police reforms. And in spite of the order that was passed by the Supreme Court in 2007 and the passage of 7 years, there is no progress in the police reforms. When the Law Commission took up issues of electoral reforms, then we realized in the Law Commission that without police reforms and without judicial reforms, these electoral reforms may not serve any purpose.

So, therefore, ladies & gentlemen thank you for hearing me patiently. Now I will request the speakers in the same order as mentioned in the programme, May I first request Shri Vinod Rai, former C&AG to give his views.
Remarks by Shri Vinod Rai, Former C&AG

Distinguished Chairman of the panel, distinguished panelists, distinguished former Central Vigilance Commissioners, the present Central Vigilance Commissioner and former Vigilance Commissioners and Ladies & Gentlemen. I am indeed grateful to the Central Vigilance Commission for giving me the opportunity to be part of the panel today. I take the opportunity to congratulate the CVC for very successfully completing its 50 years. I congratulate them for establishing a very credible and tough, no nonsense reputation for themselves, and I think this deserves to be congratulated because in times that we are existing today, it is very difficult for us to walk that very straight line in which you can ensure that you continue to be a credible institution. Of course, they have been backed by an equally tough judiciary, the Supreme Court in particular, who have tried to establish the tenet of ‘be ever so high that you may be, the law is always above you’ and I think that has been the guiding principle by which the Vigilance Commission has functioned and I think they deserve kudos for it.

Today’s topic of “Accountability of Institutions and Combating Corruption”, the topic given to us is the role of investigating agencies in ensuring autonomy with accountability. I am trying to draw a contradistinction between policing agencies which maintain law & order as against those who have to do the investigation and I think that’s why we need to draw a distinction between accountability and autonomy. Now, accountability is the state of being accountable, liable or answerable and it is the obligation of those holding that power to be in a position of power to take responsibility for their behaviour and for their decisions.

In the modern day, accountability refers more or less to the processes, the norms and structures that hold the public officials legally responsible for their actions. And in today’s modern day, I think we need to recognize the fact that accountability has more or less taken on iconic proportions. At the same time, it has to be recognized that those who have been given the power to exercise that power on behalf of Government need to be not only held accountable but need to be seen to be exercising their power transparently. They need to be made to believe that they are sitting in a glass house, all their actions are observable from the outside and each one of those actions they take, they can be held accountable for the same.

In the exercise of these functions these oversight institutions and the investigating bodies should not be subject to directions and control of any other person or authority, which is not in the line of their own hierarchy or in their supervisory agency. It is very important to isolate these institutions from what Justice Shah called as ‘inappropriate’ influences. And there comes the concept of autonomy.

What is autonomy? Autonomy is freedom to act or the freedom to function independently or the capacity to make an informed, unbiased decision. Any attempt to dilute or resist over-
sighting challenge, the credibility of accountability of institutions will only be inimical to societal needs and consensus. So, we have to recognize that if given the autonomy to these investigating agencies, best of their skills, best of their productivity and best of their innovative capabilities will come forth. And, accountability will devolve in two particular functions, one is answerability, which means agencies to provide information on their function and today answerability has become very important, largely because some of the investigating agencies are covered under the RTI.

At the same time, this accountability also has a role of enforceability and that’s where it becomes much more important for them to investigate with the objective of remedial and contravening behaviour. But in investigating, make sure that they are not only balanced and objective but also project the impression that they are actually balanced and objective in their assessment and that they are not under any inappropriate influence.

Now, today’s public has become very discerning and very demanding. The citizen on the street seeks to be in participative governance. He exercises his rights, he exercises his entitlements and it is not very long that a time will come when and today, Justice Shah referred to that, that a common man feels intimidated to enter a police station, the common man will not feel intimidated. He will enter a police station and demand his rights and those sitting inside the police station must recognize the fact that the time has come when they will be questioned on these issues and they better have a mind-set which will ensure that they look at not only the rights conferred on them by their duties but the fact that they ought to have the responsibility to society. It is under this back drop that we will analyse the role of any investigating agency and we will have to ensure that excessive accountability does not bring about some kind of a procedural killing of their own initiative or dynamism.

If accountability is in its place, autonomy at the same time does give them enough innovation and freedom. But it’s a very thin dividing line and that thin dividing line is the one which these agencies will have to ensure that they follow to ensure that in the long run they create for themselves a credibility which is immediately known to the people in saying that ok, X Y Z agencies has been entrusted with the investigation of a particular issue. The public will build up trust in them, the public will build up confidence in them, and that’s the time when there will be building up of an edifice which will be known for objectivity and transparency. Let’s not believe that these two concepts of autonomy and accountability are in any way incompatible with each other. They are not mutually exclusive either, they go hand in hand.

Accountability is a price that any investigating agency will have to pay for gaining autonomy. Autonomy of the kind that they will develop depending upon certain responsibility that they have to function within the mandate provided to them. Quite often we complain/bemoan the
fact that within the given parameters of the mandate provided to us, we are unable to function. I think that this is in some ways an alibi for their non-performance. There is much that can be done within the mandate that is provided to each one of us.

Most importantly, the investigative agencies, because the extent of their being flexible to inappropriate influences from outside, will be a indicator of the flexibility that they themselves demonstrate. If it is once demonstrated that they are incapable of being influenced, believe me, influences themselves will wither out and to that extent they will not only be permitted to function independently but will have the entire autonomy to function accordingly too.

When I said the citizens today have become more demanding, we have any number of instances before us. The inappropriate behaviour of a retired DGP of Haryana, the reopening of the Jessica Lal murder case, the repeated instances of parole being granted to certain son of a politician, all these cases had to be reopened and all these cases had to be re-focused based on public outcry and groundswell of opinion which emerged against these.

So when I talk about any investigating agency sitting in a glass house, we have to be conscious of the fact that every action that we take is going to be seen from outside and we do not display loyalty to anybody who has appointed us to the job. The loyalty has to be commitment to the sense of duty that has been devolved upon us, may be by the statute or by the constitution but it is a moral dilemma and that moral dilemma has to be carried forward in the sense that you have to reckon with yourself. You have to try and see that every evening when you wind up from the office and you are going back, you go back convinced that you have done, actually done, what you were mandated to do and in doing so you introspect and recognize the fact that you will bring about the changes in values of society which seem to have been withering away and in doing so that it could not be ever said that initiative is going to get killed. In fact, it will be emboldened and we will examine in our acts that those empowered, those in positions of authority performed their duties more objectively and transparently and ensure that they exercise the autonomy that we have been exercising for ourselves.

Investigative agencies must realize that their credibility is going to be a creation of their own performance. There is just no mandate which is going to be super imposed or we sit back hoping that we will get that mandate by virtue of which one gets autonomy. Hence considering the fact that these two qualities of accountability and autonomy are not incompatible and do go hand in hand, before I conclude I would like to stress the fact that the time has come when the citizen has become more demanding. He has become centre stage. When posterity judges, all of us who were assembled here today, particularly those who are part of either over sight or part of any investigating agency, our role, our performance, let it not be said that we had all the opportunities, all the facilities before us but when the challenges arose, we did not perform.

Thank you very much.
Remarks by Shri R Sri Kumar, former Vigilance Commissioner, CVC

Chairman, fellow panelists, distinguished delegates, members of vigilance fraternity, Ladies & Gentlemen.

Let me begin by the customary congratulations to the Central Vigilance Commission for achieving a landmark of sorts namely celebrating this Golden Jubilee event. I am indeed grateful to the organizers for having given me this opportunity to participate though I have demitted office from Central Vigilance Commission just a fortnight ago.

I had the fortune to be associated with this integrity institution ever since 1971 when I entered Government service and was at that time in the CPWD. The first orientation program was to sit in the Vigilance Section in the Nirman Bhawan and go through all the Vigilance files to find out how the vigilance cases are handled. I also got used to the CTE at that time because CTE inspections in CPWD were a must. Twenty five years ago, when I was in the CBI as SSP, Bangalore, CBI was celebrating its Silver Jubilee and I had the unique honour of interviewing the first CVC, Shri Justice Nittoor Srinivasa Rau for the Kannada channel of Bangalore Doordarshan.

My long association with the Vigilance activities makes me feel nostalgic today. I do wish that this institution takes its rightful place as the formal leader of all anti-corruption forces in the country and helps us to provide the good governance that we truly deserve. In fact, in my view or you can say my dream, a truly empowered CVC is a Lokpal that all of us desire one should have. That is what the Santhanam Committee said 50 years ago and even today those recommendations are very relevant. Fifty years is a long time for an individual but for an institution fifty years is very small and evolution is still incomplete.

Set up in 1964, CVC has already undergone two transformations. The CVC 1.0, I would say, from 1964 to when the Vineet Narain judgment came in 1997 and 1997 to 2003 & 2013 will be CVC 2.0. Even the 2.0 is not complete because CVC’s regulations have not been framed even after the CVC Act. But now, we have the CVC 3.0 coming in with the Lokpal Act being enacted. When the Supreme Court was hearing your petition Mr Vineet Narain, the autonomy and the role of the investigating agencies was under close scrutiny and the CVC enactment is a direct result thereof. Those persons who know the law know that the apex court’s directions were diluted when the Act was formed, just like the Santhanam Committee’s recommendations which were also not implemented in toto. So both these Santhanam Committee’s recommendations and the Vineet Narain judgement are a good read and good basic documents to proceed with. If only those things had been implemented in toto, probably, we would not have had an occasion to talk about autonomy of investigating agencies and where we are going wrong.
In the last 50 years, in my opinion, we have shown utter lack of will to translate into action the recommendations of Santhanam Committee and the Vineet Narain judgment. We have tinkered with these guiding principles in a half-hearted manner and have been responsible for the growing disenchantment with corruption, with the result that people have come out on the streets today. Corruption, as we know, is a victimless crime. It is a trans-border crime. The proceeds of the crime evaporate very quickly and it is necessary that corruption cases be pursued relentlessly by the State and its investigating agencies without fear or favour. If society is to be protected, corruption cases have to be handled with an iron hand. We recognize that everyone is talking about corruption and how effectively the mechanism to deal with corruption can be set right from board rooms to galis.

It is appropriate that in this Golden Jubilee also we sit and discuss how the anti-corruption agencies have to be strengthened, how the investigation agencies and accountability institutions have to be strengthened etc. and what should be role of the civil society and media. In my working in the vigilance and anti-corruption Bureaus across the decades, in UP, Karnataka and CBI etc. and now as a member of CVC till recently, my assessment is that vigilance and investigating agencies are working alone in their own silos. Rarely do we join hands and fight corruption unitedly. Our record of nailing the corrupt is very dismal and this is responsible for the growing public apathy and disillusionment. In my view, the first step should be a common minimum program and a national strategy and an implementation plan of action that is in tune with accepted global best practices and standards.

We should demand from all political parties to put out in their election manifestos not only a clear expression of political will but also a detailed proposal as to how they would implement it, allocate resources and how they will deal with the anti-corruption or accountability institutions and investigating agencies and how they will be dealing with the corrupt. The manifestos should contain short-term measures and some of these must be implemented in the first year of their being in office. Of course, mid-term and long term proposals are also required. Mid-term, probably for the next five years they are in the office and long term for 20 – 25 or 20-30 years.

We also need a performance evaluation matrix that should spell-out in which way all of us as stakeholders will evaluate the performance of the institution and the governance body. In fact, one of those performance evaluation matrixes was announced by the CVC when we celebrated the Vigilance Awareness Week in 2010. In the Vineet Narain judgment the Supreme Court was considering the matter of public importance when the nexus between crime and corruption in high places in public life and threat it poses to integrity, security and economy of the country were being discussed. A prayer was made that such evil actions on the part of investigating
agencies and the political superiors are not to be repeated in future. The court accepted that permanent measures are necessary to have fair and impartial investigation agency and avoid the need for every matter of investigating agencies losing their way while searching for the truth and coming to the Apex court. Unfortunately, we are having it again and again and that matter is going on. We have not yet found a the permanent solution.

When we talk of the autonomy of the investigating agencies a lot of things have to talked about i.e. legal autonomy, financial autonomy, structural autonomy including the appointment of the Director, other officials of CBI and the IO, the prosecutors etc. This is because interference is at every stage, right from registration of the case, the investigation of the case, the trans-border chase of criminals and tracing of foreign assets, the formation of the final opinion in the case, the trial of the case, the post-trial appeal stage. At every stage there is some hidden hand working. The CBI officers, you are aware, did a study and the net result was of 698 accused being charged in a period during 1980 to 1984. After 13 months of investigations and 7 years of trial and then further appeals etc., 3.9 % of the people were convicted to serve jail sentence for little more than a month. So conviction is hardly the effect of any anti-corruption agency. Therefore, there is no certainty of being caught and punishment for corruption. Every time the IO gets changed, the prosecutor gets changed, the trial judge gets changed. In fact, while I was DG of Police, out of 1008 Inspectors in the cadre, 1000 were transferred once, twice, three times or four times in the seven month period in spite of my objection because of the Government and other external forces coming in. So, if you are talking of police accountability and investigation proceeding fairly to bring the guilt home to the accused, it’s a myth.

If we are talking about investigations and investigation agencies and autonomy of investigation agencies, it is necessary that how the superintendence over the investigation agencies should be made, whether it is the CBI or the local police.

Luckily for us only yesterday, the Supreme Court has said that the powers of superintendence that the CVC wields over the CBI in investigations will be looked into in the coal allotments matter. But talking of the autonomy of the investigating agencies, the apex Court has laid down directions time and again. The power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary said the Privy Council in the Gwala Naseem Ahmed’s case. Any judicial intervention in the investigation is to be construed as an unwarranted encroachment into the field of activity reserved for the other branches of the Government, if it is a part, a possible direction of a suspected offence was set by in the Supreme Court in J.S. Haldana’s case. Superintendence and investigation of a case is an executive function and this function of the Government has now been given to the
CVC. Thanks to Vineet Narain’s case, the CVC Act has substituted in Section 4.1 of the DSPE, for the words “by the Government” the words “by the Commission”. So whatever the Government did, it should be done by the independent body called the Commission and that is where we should be moving towards. Luckily, Justice Lodha yesterday said we want to know the scope of superintendence of the CVC over the matter of CBI. He was also saying that what is important for the Court is that the view of the CBI of not proceeding with the matter must be examined by an independent authority, the CVC or the Lok Pal once it is formed. So, we have to accept that there has to be an over sight mechanism into the investigations and that over sight mechanism has to be independent of the Government and that has to be not with one individual. It should be a body of individuals coming from diverse fields and they in their wisdom should consult and try to evolve a consensus.

Of course, Shri Sinha, you will agree with me, in the monthly meetings of the CVC and CBI, we have been requesting you to examine that once you have completed your investigation, along with the evidence put it out in the public domain for transparency. Let people decide because ultimately people are sovereign and have to decide whether the investigation was fair, true and correct conclusions have been drawn. A case in point here is the Arushi-Hemraj murder case. Your conclusion was something else and the Court has now decided something else. So, in an investigation which is on-going, when the accused are to be arrested, stolen assets are to be recovered etc., secrecy is called for but once that investigation is complete, when we make the charge sheet and final report and give it to the court and to the accused, why not bring it out in the public domain? Let everybody see. If your decision is not to prosecute for certain deficiencies in evidence, you could also go for crowd sourcing to say I am lacking evidence in these matters. If no evidence is forthcoming in the next one month, I am going to close the case. That could be a way forward. So investigation laws are not important. The people who sit there and implement the laws are most important. Every time we have to understand that we are working in public interest and doing a public duty, we have to get the trust of public and we have to proceed accordingly.

As long as public interest is held supreme, I think, we will have lot of things to be done. I have lots of points as to how technology can be used for this particular purpose, including transparency, but the most important thing which I would like to conclude with is that though CVC has been in existence for 50 years, I think that in the next 50 years the CVC should not be there. Vigilance should not be there, CVO should not be there. Every manager has to be empowered to be a vigilance officer because we have been told that every policeman is a citizen in uniform and every citizen is a policeman without uniform. Vigilance is a management function. So everybody should be doing that particular function. If that is happening, the CVO and Vigilance set up and CVC would have, probably, no work. They will become participative
vigilance managers to give expert advice before things go wrong, not conducting a post-mortem to say that so and so is held accountable etc.

I think that time has come to stop talking about corruption. The time has come not to turn your face away from corruption. We have to start doing something, start acting in public interest and not in private gain. Believe that whatever you are doing, you are going to be that agent of change where the world for our future generation is going to be better. It will definitely be better if all of us start acting in unison. Thank you very much for your patience.

**Remarks by Shri Ranjit Sinha, Director, CBI**

Esteemed panelists on the dias and distinguished guests and delegates, who are present here. I am privileged to be here to address in a very important event.

Sir, having heard the opening remarks about the functioning of the police, I will be not true to myself, if I do not say few words in defence of the police although, I know, it will be a very difficult task for me. Sir, I have been in the police for 40 years and it is not the first time that I have heard that what the police should be. But Sir, believe me, whenever there was a crisis situation and I was asked to act, nobody asked me to do things according to rules of law. I was asked to deliver and if I did not deliver, I was given the impression that I was inefficient, I can’t be fit to work in the field situation. Sir, having said that, I can only say that police is part of the entire criminal justice system and to expect different type of behaviour from the police is rather a tall order. We all belong to the same set-up. We all come from the same social background and it will be in fitness of things if the things are looked at in a proper perspective. I belong to Bihar cadre and some of the persons in the audience also have the experience of having worked in Bihar.

I will just quote two instances. When the Bhagalpur blindings took place, you will be surprised to know that the local officers, including the SP and IG there, were felicitated by the local population because they had eliminated or they had blinded the dreaded criminals. It was a different thing that they later faced a CBI inquiry. Many of them went to jail. I have also had the occasion to serve in para-military forces in Jammu & Kashmir and Srinagar, in Punjab and I know how we were asked to deliver the results. Most of the police officers who have done a wonderful job, who were really decorated later faced a CBI inquiry. Some of them are still facing trial and one or two officers, in fact, committed suicide. So this being a situation, we just want to know what type of police do you want and what have we done to really bring about any change in the system of policing? When we joined the service in the mid 70s, we were looking forward to the day when things will really improve. Now, in the sunset of my career, the reality is that the number of police officers who are behind bars is the largest than at any time since independence.
Having said that, I will confine myself to my job in the CBI. The primary expectation from any investigating agency is that it should conduct investigations in a free, fair, impartial and complete manner so that while on the one hand no accused may feel that he is above the law, on the other hand every innocent has the confidence that he will be protected from any unjust and unfair proceedings. It is a matter of satisfaction for the CBI that over the last 50 years, it has been able to earn this wide and deep trust from the courts, media and public at large while investigating complicated cases of anti-corruption, economic offences, banking frauds and other national crimes. It is a matter of record that investigations of these complicated cases have at times involved taking decisions which have gone against the prevailing public opinion and against those in positions of authority at other times. This trust has been built over a number of years not only due to the professional work of the fearless CBI officers but has been possible because of the environment in which these officers have been allowed to work.

I am proud to state before this august gathering that the core competence of the CBI is that every level of officer has independence and freedom to express his views, back it with his arguments, facts and circumstances that he may have collected and recorded during the course of investigation. Indeed, it is this environment that nurtures professional freedom which distinguishes CBI from other investigating agencies and the need of the hour, therefore, is to further strengthen this environment in CBI and to take steps to inculcate similar values and work environment in other investigating agency across the country. The CBI is manned by officers drawn from across the country who are selected through a vigorous process to ensure suitability and having integrity and professional competence. At the subordinate levels also, a robust system of checks, an internal vigilance to ensure that the freedom to express one’s opinion which is given to every investigating officer is exercised in a judicious and unbiased, professional manner. For this environment to be further strengthened, the CBI has been in the recent past requesting the Government for administrative and financial autonomy and for making available financial and other resources so that the larger goal of free and fair and complete investigation does not get delayed or impeded due to the lack of such resources or authority.

I am the last person to advocate authority without accountability and I am fully aware that the CBI’s operational freedom is intrinsically linked with greater responsibility and accountability. The present system of superintendence by the CVC which has evolved over the last few years and involves monthly meetings on different aspects of our working is one such tool to make us accountable. The Central Government continues to superintend the CBI in matters other than the investigation of the cases under the Prevention of Corruption Act. Both these agencies of superintendence have maintained an arm’s length position while exercising such powers. This needs to be fully appreciated and further institutionalized.
I may further add here that every investigation by any agency including CBI is placed and trusted before a court of law and the fact that even today we have 67% conviction rate across the country is a fair testimony to the integrity of our professional work. Further, if the court makes any adverse comments about the investigation or the investigating officer, the same is taken very seriously in the CBI and such matters are examined for further necessary action against an erring and negligent CBI officer. I would not hesitate to accept, however, that we have to work hard not only to maintain our professional competence and public trust but also have to upgrade our skills to meet the challenges of a more complicated, globalised and interlinked world where crime and its linkages may involve various sovereign jurisdictions across the globe and may also involve working to unravel rather complex, financial and technological conundrums. The CBI is in the forefront of anti-corruption efforts in this country and has achieved this position because of the insulation from the daily pulls and pressures that other investigating agencies are susceptible to. Therefore, the need of the hour is to replicate this model in other law enforcement agencies across the country.

I may mention here that so far as superintendence of CBI is concerned, Section 41 of DPSE Act is only an empowering provision that is further predicated by Section 81 A of the CVC Act. Harmonious reading of both these provisions makes it clear that superintendence of DPSE Act i.e. the investigating wing of CBI, in investigations under PC Act has been entrusted to CVC. I may quote the relevant extract from the Hon’ble Supreme Court’s judgment of 1997 in the Vineet Narain case. The general superintendence over the functioning of department and specifications of the offences which are to be investigated by the agency is not the same as and would not include within its control of initiation and the actual process of investigation, i.e. its direction. Once the CBI is empowered to investigate an offence, generally by its specification under section 3, the process of investigation including its initiation is to be governed by the statutory provision which provide for the initiation and manner of investigation of an offence. This is not an area which can be included within the meaning of superintendence. The word superintendence in Section 4 (i) cannot be construed in a wider sense to permit supervision of the actual investigation of an offence by CBI contrary to the manner brought in by the statutory provision.

We all appreciate the fact that autonomy and accountability are two sides of the same coin. Functional autonomy is a must for an investigation agency to be able to discharge its constitutional and legal responsibility in a fair, just and complete manner. At the same time, being accountable to the law of the land through instruments that respect the independence of the investigations being guided by them intend to facilitate the achievement of the goal within the context of law of the land is equally important.

Sir, in this context I would like to dwell upon the fact that on the orders of the Hon’ble Supreme Court we had asked for more functional autonomy from the Government. It was
taken differently and the impression was created that we, probably, wanted to be out of the purview of the Government, which was absolutely incorrect. It was never our intention to be working outside the purview of the Government. In fact, no police organization anywhere in the world is allowed to work outside the purview of the Government. But the end result of it was that finally the Government thought it proper to give us some functional autonomy in the sense that we were given some more financial powers, some more administrative powers. It was an eye-opener for me to learn that all these powers could have been given to us even earlier without the intervention of Hon’ble Supreme Court’s direction. I don’t know if it was because of the need to show the supremacy of the bureaucracy over the investigating agency or anything else because all these things could have been given to us even without the intervention of the Supreme Court and no rules were required to be broken and no rules were required to be violated. So much for the intent of the Government for providing autonomy to the CBI. As Shri R. Sree Kumar has said that in the monthly meeting we have been interacting expressing our views very freely but I have some reservations about his comment that after completion of the investigation we should throw everything open to the public for their assessment of our inquiry. I think till the matter is settled in the court of law, it will not be proper to us to expose everything before the public to really pass their comments on our performance.

Thank you very much Sir.

Remarks by Shri K.K.Venugopal, Senior Advocate, Supreme Court of India

Justice Shah, eminent panelists, Ladies and Gentlemen

I have been associated for the last 3 years with the CBI and the Enforcement Directorate in appearing in what is popularly known as 2G case, in the Supreme Court of India and therefore I have some little insight into the functioning of the CBI. I should say that it is accepted by all sides that this organization is a premier investigative organisation. Otherwise, how would you explain the large number or plethora of public interest cases being filed in the various High Courts in the country and in the Supreme Court with one prayer- “Please transfer the investigation of this case to the CBI.” I know that on a large number of occasions, the CBI had to tell the Courts, ‘Look, we are over-stressed, how can we possibly take up this case’. For example, take the MNREGA, where there was a report that in Orissa, UP and Madhya Pradesh, of large scale falsification of cases. In every single village, possibly with a very large number of bogus names being added, the villagers themselves have not been given the jobs i.e. to any person in the family and got the money, which has been diverted. Now, I am amazed by the fact that they were willing to accept it and that they have submitted a report to the Supreme
Court of India, after about 6 months of investigation done in 100 odd villages. Therefore, this organization is today being recognized throughout the country, as an organization whose independence and integrity can be relied upon.

But this is not always so, because we should remember that the CBI has been set up, whether it is a DSPE (Delhi Special Police Establishment) or not because of the dispute about it after that Assam judgment. It has been there from 1946 under an Act which was passed by the British and you can't believe that or imagine that the British would let them be totally free to investigate a case and to function without their control and supervision. Results being that appointments, transfers, financial freedom, all these were controlled by the Government of the day, as it were and as a result, we took a very large number of years, till this judgment, mentioned by everyone, as the Vineet Narain judgement, and freed them from the shackles of the governmental control and supervision, to some extent.

There is a saying that if you have power over one's wherewithal, you have power over one's will and if, therefore, financial freedom and functional freedom are not there, and if all these are being controlled by the Government surely would you not expect that these persons will always look to the Government and ask, what is that I should do? But, in spite of all this, they have been able to acquire this reputation, which I said that they have been able to do so. Now, in the Vineet Narain case, the CVC Act was passed. Pursuant to that and fortunately so far as CBI Director is concerned, he was to be appointed by an independent body consisting of CVC and there would be 3 members from CVC and 2 Secretaries to Government. Now, one method of controlling any organization or any public servant would be to have power of appointment, the power of transfer, the power to write this confidential report and so on. And that is where I believe that so far as the CBI or CVC is concerned, his being there taking over the entirety of the functional aspects (so far as the CBI is concerned), except in regard to the manner in which an investigation should be conducted. That is something which traditionally all common law countries have laid down. No one has challenged or interfered with the method of investigation. Actually in England this is what Lord Benning said, “that the manner and method of conducting the investigations are left entirely to the officer in charge of the Police Station” and therefore, so far as this is concerned in India, a Magistrate has no power to interfere with the manner of investigation. In England it was said that no Minister of the Crown can tell the Commissioner of Police that he must or he must not keep observations on this place or that or they must or must not prosecute this man or that man. Fortunately, so far as the right of investigation is concerned, that was completely left to the investigating officer and it is his superior alone who could look into the manner in which he had investigated it.

Even so, a certain amount of control was sought to be retained. One was by the power of granting sanction that no public servant could be prosecuted until the sanction was obtained.
Of course, it was necessary to a great extent because a public servant has very onerous duties. Now, he has to decide against persons, he has to grant a license by rejecting one and granting it to another. Invariably, there will be a feeling that he must be corrupt and, therefore, a false complaint. If that officer is then told, he is being prosecuted because a complaint has been registered, then indeed that officer would lose his independence. He would rather not function effectively and independently and therefore the Section 197, Section 19 of the Prevention of the Corruption Act.

But what was considered to be extremely painful, extremely wrong, was the Single Directive, which said that no superior officer could be proceeded against unless the approval of the Government is obtained and that was in regard to investigation, not in regard to trial after evidence was collected after a prima facie case was made out. After the Magistrate took cognizance, after looking at the entirety of the accused, the matter was placed before him along with the police report. Therefore, to say that he shall not even investigate a person though strong suspicion existed, material was there, because he was a Joint Secretary and holds an office of Joint Secretary and that it serves the highly criticized section 6 (A) of the DSPE Act, which was introduced in 2003, which was supposed to be amended to give a lot of autonomy and independence to the CBI, you can take it from me that unless the Supreme Court were to step in from time to time, when it found that so far as the enforcement and investigating officers were concerned, they were being subjected to influence and pressures. I believe that the old situation would have continued and one had to look to the Supreme Court on every occasion for the purpose of freeing the investigating agencies including the CBI from the control of Government.

As a result, so far as Section 6 (A) is concerned, which says that no investigation can be embarked upon against an officer above the rank of the Joint Secretary without the prior approval of the Central Government, I am afraid that it may not be in the statute book as long as the matter has been argued and very strong criticism were levelled against the Section and the judgement has been reserved. This Section has been the subject matter of a very learned article going into about 20 pages published in a foreign journal and that is under the United Nations Convention against Corruption, where this article dealt with the Indian Delhi Police Special Establishment Act Section 6(A) and in particular the Single Directive and said that this is wholly violative of the United Nation Convention against Corruption Act to which India was a signatory.

Now, unfortunately, recently there has been a controversy during the last few days about the appointment of the Additional Director of the CBI. All these controversies arise, because so far as Government is concerned, it is not prepared to give up its hold on all these issues. According to me, a mere reading of Section 4 a (i) of the DPSE Act would clearly show that so
far as the appointment of the Director is concerned, Section 4 a (iii) says that a Committee that is consisting of Central Vigilance Commissioner, two Secretaries to the Government and current Vigilance Commissioner, shall recommend a panel of officers for the appointment. Thereafter Section 4(c) says that the Commission shall, after consulting the Director, recommend officers for appointment to the post of level of Superintendent of Police and above. Therefore, no question of a panel, it shall give the names of the officers who should be appointed and on receipt of the recommendation, the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation. So whatever recommendation is made, it shall be made effective. Now in which way to say that I shall not give effect to that recommendation, because I want to appoint somebody, which is the teeth of the Act and unfortunately, all this is wholly unnecessary. So far as the Government is concerned, I think it is not being well advised, because it has to agree that so far as the CBI is concerned, the courts have seen the writing on the wall, they believe that if you allow CBI to be controlled in this fashion by the Government you are going to get lots of subversion as it were, of the investigation of these.

Questions and answer session

Qs. Prof NK Jain: What is position of police reform and their implementation and what are the hitches? After a kick from Anna Hazara and Baba Ramdev, a Lokpal Bill was passed. How much time will it take to implement the same? Will it require another agitation for a better Jan Lokpal Bill?

Ans: Shri Venugopal: The Prakash Narain judgement was given with great hopes that it would be implemented by all the states and notices were issued by the Government to every State but unfortunately most of the States failed to implement it. Only six or seven States have implemented it so far. The Act provides for a Police Complaints Authority (PCA) to be in place for filing complaints which is very essential. If the PCA had been established, as required under the judgement, we would have seen a totally different way of working of the police in the country. It is the one thing to ask for the implementation in the working of the Police. It is something we have been asking in the working of the CBI, but of course, it cannot become a law into itself. It is very important that the PCA is set up in all the talukas in the country. Even the state Human Rights Commission could examine complaints and direct an FIR against a policeman who is guilty of misconduct. In that sense, the recommendation has not been implemented. Mr TSR Subramanian a former Cabinet Secretary and 60 other eminent bureaucrats, including former Ambassadors had filed a writ petition on behalf of the civil services, and the judgement was delivered and was implemented. Supreme Court has directed that a Civil Services Board should be set up and all transfers and a tenure has to be fixed. This could be three years or two years but you should not transfer an officer before completion of
tenure, not fourteen times in three years, unless the Civil Service Board permits it. And so far as that is concerned, if the prohibited transfers are to be done, then the Chief Minister alone can over ride the Civil Service Board for reasons to be stated which can be scrutinized by a court. Therefore this has been implemented by practically all the States within the last three months.

Shri AP Shah has also commented that in the Lokpal Act there is no requirement of prior sanction now. And there is very peculiar provision made. Surprisingly, what is provided in the Act is that before commencement of the inquiry, notice has to be given to the concerned public servant.

Qs. Shri N Vittal: Enquired about implementation of Justice Verma judgement on Single Directive on Article 14 of the Constitution.

Ans: Justice AP Shah clarified that hopefully it will be repealed by CVC.

Qs. In number of scams, corrupt judges are the presiding judge in the matter.

Ans: Accountability Bill which is pending with Rajya Sabha can take care of this if judiciary is included.

Smt. Dimple Verma, CVO, NBCC.

Qs. India is signatory to many conventions including Convention Against Corruption. There is also Convention against Caste, Class etc. signed. Still the discrimination exists in terms of promotions, transfers, etc.

Qs. When an ordinary person is killed and a police person is killed, why do we not see the person behind uniform?

Ans: There is no difference between a normal citizen and police personnel, both are seen from human angle.

Qs. What is the harm in putting the case on public domain?

Ans: The issue is being examined through legal counsel.

Additional DG (Vigilance), Himachal Pradesh.

Qs. There is a Supreme Court order on registration of a case against a judge. What is the present situation?

Ans: Prior permission of Chief Justice of India is required as per Veeraswamy case in Madras.
High Court. If Accountability Bill comes about, the whole process of prior permission may be dispensed with.

Ms Kavita Kestur, CVO, BEML

**Qs.** National Government is talking about anti-corruption. But at the State level, the position is not good where many people are the victims. Why are States not taking the same measure?

**Ans:** When the Central Lokpal Bill came, the idea was to have a Lokpal in all States also on the same lines. There were serious objections to the same. There is a choice for the States to have their own law in the States. Central Government can make anti-corruption law for the States, but the mechanism of the State is different.

**Qs.** Government criticised CBI and CAG as policy paralysis has weakened the Government.

**Ans.** I don’t see the institutions have ever been weakened.
BREAKOUT SESSION - II

COMBATING CORRUPTION: TECHNOLOGY AS AN ENABLER

• Changing of organizational boundaries using ICT
• Citizen engagement and empowerment with use of technology
• Re engineering processes/rules/regulations/systems
• Service delivery and Transparency in Governance

Examples of successful ICT initiatives (e-procurement, e-payment, reverse auctions, etc.) in improving transparency
PANELISTS

Chair: Shri J. Satyanarayana Secretary, Department of Electronics & IT

Speakers:
(i) Ms. Sudha Sharma Chairman, CBDT
(ii) Shri M.J. Joseph Additional Secretary, Ministry of Corporate Affairs
(iii) Shri Vijay S. Madan Director General and Mission Director, Unique Identification Authority of India
(iv) Dr. Arup Roy Choudhury CMD, NTPC

COMPERES
Shri Amitabh Jha, BHEL
Ms. Deepika Bhandari, BHEL

RAPPORTEURS
Shri Jyoti Kumar, GAIL
Shri Jignesh Vasavada, GAIL
COMBATING CORRUPTION – TECHNOLOGY AS AN ENABLER

Introductory Remarks by Shri J. Satyanarayana - Secretary, Department of Electronics & Information Technology

It is really my privilege to be chairing this session on a very important theme, which is, leveraging technologies for combating corruption. Of course, to a great extent we do not intend to leverage technology through a power point presentation, for a change, except Dr Roy Choudhury who will make a brief presentation, but others will speak. That is, of course not to undermine the importance of technologies!

If you look at the overall scenario, India is none too happily placed. In terms of the Corruption Perception Index, globally we are ranked 94, somewhere in the middle probably, with a score of only 36% that is way below the half mark, and when translated into money terms the size of the corruption is estimated to be at a lakh crores annually, and indirect opportunity cost associated with the related transactions happens to be double, that is, about Rs. 5 lakh crores. About 3 to 3.5% of GDP is thus eaten away by this cancer of corruption, year after year. So that is the kind of problem we are facing today and are trying to find ways and means of addressing it.

Obviously when you are talking of 3½ lakhs crores, any amount of investment in monetary terms or budgetary terms is less. Why does this corruption come? Because before we think of solutions, we must know the root problem. Globally the known causes of corruption are excessive regulation, complicated taxation laws. Sudha and I were together 38 years ago at Nagpur and we were frightened by the very size of the Income Tax Act, with its sections, you know exhausting all the alphabets, and then it goes into AA BB CC ZZ - it was that complicated and continues to be so. I don’t know whether Direct Tax Code is going to be a solution to this kind of a complex taxation law, but that is one of the causes. The licensing system, excessive discretion, monopoly, and lack of transparency - these are some of the commonly known problems, I mean root causes of corruption. This is compounded by the fact that in India there are several external factors. All the points that I mentioned earlier are internal to an organization/department/agency or a process, but external factors like illiteracy, the vulnerability of the population due to illiteracy, low threat of punishment and also lack of citizen engagement, citizens are taken for granted and legislations and rules and other things are cumbersome, things are built on top of that – so that is the problem. And of course everywhere it is always the demand - the numbers are so huge that no arrangement or supply would work, so there is a demand-supply mismatch which forces people to find short cuts.
Having said that, let me just mention about the granularity of the corruption, what kind of levels corruption exist, because this analysis is important from the point of building systems, whether IT or non IT based systems, to address that. At the lowest level, but largest number, is the transaction level of corruption or petty corruption as we call it, which is at the point of service, like government records, certificates of various types, tax (receiving the tax), giving Government pension and other benefits etc. The second higher level is at administrative level which is the middle levels of management like appointments, transfers, postings, procurement, allocation of resources, and admission to various institutions and so on. These are administrative in nature, not really comparable to the transaction. These are less in number but more in value in terms of the corruption possibilities. The 3rd and the highest level is the policy level, where a patently wrong decision is taken or a biased policy is formulated, and there is reluctance to change the Act and Rules, because if you simplify them then somebody loses the bread. So at these three different levels we need three different possible kinds of solutions.

At the policy level whatever kind of technology you want to infuse it becomes that much intractable, so intractable it’s not possible to apply a technology solution at the highest level. There should be other solutions there. At the transaction, possibly at the administrative levels, it works best. That’s the point I am making.

The second theme is the kind of strategies that have been tried out in the past to combat corruption. First is the oldest Dewan-e-Khas and Dewan-e-Aam approach, where the king sits there and people come with petitions, complaints, requests etc and then it is heard and on the spot or later some dispensation is given. The grievance based approach is number one. Receive more and more complaints and try to tackle on one on one basis. But in that the shortcoming is, do we ever look at why so many complaints are coming? Can we do something to cut the source of the complaints by changing the system here? The grievance based system, while it is age old and still is very much there and required as well, is not the most effective one. The second is the policing approach - the CVCs, the ACBs the Lokayuktas, Lokpals all these things, which is from a punitive, investigative angle to put some deterrence to the whole thing. The third one is the rights based approach-create rights in the citizens and allow it to take its own way forward. Put some sense into the system by creating rights for the citizen and this is Right to Information, Right to Service, Right to Education-so many rights based Acts are coming. It is another approach. The last, fourth one, I would like to mention is the reforms based approach. Question the system, things that are fundamentally rotten, whether 10-15 years old, need to be replaced. That is the reforms based approach, process reforms, BPR etc. I have circulated a paper also, maybe it is in your bags there, in which I mention that this is the best preferred approach. In the long run a sustainable model is to adopt a reforms based approach.
When you talk of reforms, one key thing that needs to be mentioned is that mere introduction of technology by itself will not solve the problem. It may only, in some cases, even speed up the channels of corruption. People tend to get bribes faster than they would in the normal course by dealing with more number of cases, in less time unless we go to the back end, question the process and improve the process at the back end.

Business Process Re-engineering (BPR) is very important. I would like to mention at this point that there are six ways everybody talks about BPR, process reforms based approaches but what does it mean. Six different things/tricks of the trade or thumb rules can be there. First one is elimination - think that every process which is not required, exit. So first we eliminate processes, if needed you introduce it later. Throw out everything first and take only good things into the house. We did that once when I was a Collector in one of the districts, where we had the inspection of Commissioner of Land Revenue who is supposed to conduct an annual inspection. I went to the Collector’s office on a tour a few days before. It was really so rotten, not likeable at all-racks and racks of files, unwanted material etc. We had very little time. It was Saturday or Sunday and on Monday he was coming. So on Saturday, I said put everything in the lawn outside the Collector’s camp home, every rack, every piece you keep it outside. Leave it there and then you take inside only those papers, those files which are relevant. It was real magic. You will not imagine that we had to engage 20 plus lorries to ply on Sunday to remove the whole stuff, which was left in the lawns at the end of the day. Only 10% or less of what was relevant. So process reforms is like that. You need to eliminate unnecessary stuff, non-value adding stuff. Then simplify the rest, standardize it across your geographical units, automate the repetitive task, introduce self-service. So these are the kinds of techniques that need to be used in any major process if you need to see better results.

In India, certain specific complexities like large numbers of the population that we need to deal with (volumes) are the problem, so we need to enhance the outreach - the more the number of outlets, the less the chances corruption. If everything crowds to one single point of service, obviously there will be a problem. Simply cut the jurisdiction, decentralize, then it will have a very good, sobering effect on the system. We have these CSCs as a technology solution-the Common Service Centre:1, 25,000 of them across the country where some of the routine services and transaction services can be taken to.

The other aspects here are the examples of process reforms and the use of technology. We have the MCA-21, Shri Joseph is going to speak more about it. We have the Income Tax which has made life simple, ‘Saral’ for us for filing Income Tax returns. Sudha is going to speak about it. The integrating factor called ‘Aadhaar’ which is another technology piece, which will make a single window approach possible so Vijay is going to speak about it. I am sure that Chaudhary will speak about how it looks like from the public sector perspective.
In the IT department, through the National e-Governance Plan, we have taken a number of projects, starting way back with registration computerization, which I had done in the state of Andhra Pradesh in 1995-96. A number of projects like e-sewa, e-procurement, e-office, MCA-21, Passport Project. Fortunately I had the good fortune of having a say in all these major initiatives – either as a person who implemented it or who designed and architected these projects.

These are the actual examples and the plus or minus will be told by the other panellist. Let me just say that technology is a great approach, using technology effectively coupled with process reforms. Technology by itself will not be able to do anything unless it is coupled with process reforms. These are like two sides of a coin. Only one side of a coin is not valid so I keep saying that e-governance is not about ‘e’ but about governance. Simplify it, eliminate un-necessary things and apply ‘e’, then it will be more effective. That is the role of technology per se. I now invite the Dr. Sudha Sharma Ji to give her experience in revamping the Income Tax System.

**Remarks by Dr. Sudha Sharma - Chairman, Central Board of Direct Taxes**

I am very thankful to CVC for having given me an opportunity to talk about the use of technology as an enabling factor for reducing corruption so far as Income Tax Department is concerned. Since morning we have been hearing how corruption has become endemic not only in India but in all the developing and developed countries. And everywhere we find the examples of abuse of entrusted power for private gain and everywhere people are fighting to control this corruption. The power of technology as an enabler to bring about both transparency and accountability in the administration was realized by Government of India also, and they identified some critical departments which have a lot of public interface to introduce technology so as to reduce corruption.

Income Tax Department was one of the Departments which was identified for this comprehensive computerization to bring in efficiency, to address legacy issues due to an inefficient public service delivery mechanism. We were chosen way back in 2005-06 when there were a lot of legacy issues, problems because of which corruption was there. It was touching a large number of people, so it was a great concern for us and as Mr Satyanarayana has just pointed out, to put such a big tax law into technological mode, to implement it and to make it in such a way that there is least interface and least discretion. We worked out the legacies, the problems.

There are three main works we have been assigned in the Income Tax Department:

(i) To accept Income Tax Returns
(ii) To give credit for the taxes and
(iii) To give refunds whatever extra is paid
In all the three we have this legacy problem. So far as income tax returns are concerned they were voluminous paper returns, with no e-filing. Manual processing was there, storage and retrieval problems were there and TDS (Tax Deducted at Source), how to verify it and give credit to. There is also tax credit and we have got limited options for tax payments. Payments were not reconcilable because there was no machinery. It all depended upon the babu at the back door. There was non-filing of TDS statements. It all depended upon an individual bringing some receipt and whether the receipt is verifiable or not, correct or not, manipulated not, we were not in a position to really do that. Because of that there were many fraudulent claims which were being made. Lack of this transparency led to discretion without accountability, and invariably it resulted in corruption in the Department.

When the Government of India started the pioneer projects with Income Tax Department in 2005-06, for induction of technology in the business process of the department, the two main purposes for this were, first, to reduce physical interface and, secondly, to increase transparency and accountability. We took seven different aspects for promoting this:

(i) e-filing of all types of returns & forms,
(iii) delivery of tax payer services by leveraging technology, including providing anytime, anywhere service,
(iii) range of e-services to reduce the need for direct interaction of tax payers with the departmental people,
(iv) information to be given to tax payers so that there is transparency and it encourages voluntary compliance,
(v) handle routine and repetitive tasks in a centralized processing centre, and this was the biggest challenge which we had: how to reduce this difficult complicated Act into business processes for which technology were used,
(vi) then migrate to a rule based standardized decision-making to reduce chances, discretion and misuse and
(vii) the most important, to develop a non-intrusive information driven approach for improving compliance.

We have to collect taxes, we have to touch all pockets who are paying the taxes but it has to be done in such a way that we become facilitators, not bosses. We have to use technology in such a way that interface is not there. These were the big challenges we had. Different initiatives were taken. I will be taking you through the journey, how we started in 2005-06, and where Income Tax Department is today.
There is virtually a paradigm shift in the working of the Department as on today. We have introduced many tax payer services and e-filing, e-returns are there. You know about PAN numbers we are giving first, one computerised number to each person without naming them, so that through that we can trace. As on today, and I am giving you the data upto 31st January 2014, we have already issued more than 17 crores PAN numbers, of which 16.83 crores applications were received through e-mode. So you see the success how we are working on these things.

Secondly the most important thing is e-filing of returns. Our central CPC (Centre Processing Centre) is in Bangalore. There was a time when processing of a return was taking 12-18 months and as on today, because of the CPC, Bangalore and the processing being done electronically, the time of processing is reduced to 61 days. People are experiencing the benefits of filing e-returns. The compulsory filing of e-return in the beginning was only for the corporate world, last to last year it was for people with income limit of Rs. 10 lakh and above, and last year we reduced it to Rs. 5 lakh and above. The growth of e-filing returns is mind boggling, but very encouraging - 78% of the people who are filing e-file returns are doing so voluntarily, where it is not needed compulsorily, and 52% of the returns filed are after office hours, anywhere, any place. The other day I was in Paris for some meeting, and the Indians there were telling me that they have already filed e-returns and have got the refund also through e-mail. That is the success and you felt so happy that there is at least one happy face which is telling this, and he can do it from Paris also.

I tell you the growth - last to last year 1.64 crores returns out of the 3.5 crores total returns were being filed electronically. Last year it was 2.14 crore and this year upto 31st January, we have already crossed 2.25 crores e-filed returns, which is a growth of 43.76%. That is the way this has been so popular in the public.

Now, as far as processing is concerned, the capacity of CPC, Bangalore has reached to 280000 (two lakh eighty thousand) returns per day. This is our capacity. Starting from 2009 up to now, we have already processed 5.74 crore returns in CPC, Bengaluru. Then we have got a Record Management Centre over there and we are the first to get ICO:15489 certificate amongst all Government Departments for record management, where record is managed through bar codes and image depository and the files are not kept in the CPC, Bengaluru. Once they are done, they are kept in some far off godown, and from godown to CPC, Bengaluru, if you want to retrieve some return, it takes only 10 minutes. Bar coding has been done and from that bar code in the CPC itself, we can find out which file is in which box, in which place, on which shelf. This is so precise that is hardly takes any time - there is no human interface at all.

Once it is scanned at the starting point, even bank refunds are printed within the CPC itself by the SBI Refund Counter, then placed inside the envelope, closed and sent to the India
Post counter. No human interface - it goes from one machine to another till it closes into an envelope and goes. That is the perfection of e-filing through technology. Because of that, the satisfaction level of the public has really increased and at the same time corruption level has gone down.

Secondly, with regard to forms, last year we took this up and are doing all essential forms, audit reports which Income Tax Department wants to be filed in a phased manner, they are all to be filed through e-mode only. We have already started it in September last year, and up to now have already received 21 lakh such forms & audit reports through e-mode in our systems. So that way data is systematically being collected and monitored.

Another important thing, because of which there was a lot of corruption, is refunds. It is a pleasure for me to inform you that we are doing 99% of the funds through a Refund Banker scheme. I have already told you, that up to Rs.50000, we are sending the refunds through e-mode. But beyond Rs.50000, SBI is a refund banker. At CPC there is Refund Banker Counter of the SBI which prints the refund there itself, and after putting it inside an envelope sends it to the India Post counter. There is absolutely no human interface. Hence, now, only about one percent of the refund cases are dealt manually, where appeal has to be effected. Only these cases have to go for some adjustment, otherwise adjustments are also being done from CPC, Bengaluru only. Also, all these refunds are web based. You can trace them on the net where the refund is, why it has not been given or where it is stuck-the information comes in your 26 AS Account. As you know, every tax payer has a 26 AS account where whatever taxes have been paid by a person and the refunds issued are shown. So any assessee who has paid the taxes can see how much adjustment has been done and if not done, why it has not been done. If I give you the figure, CPC Bengaluru had already issued 2.34 crores numbers of refund which gives a total amount of Rs.48740 crore. That is the success story of CPC.

Then we have got computer aided scrutiny selection. This is also an important area where corruption was there. The officers were selecting the cases manually and there were several complaints. In the beginning, till last year it was given that Chief Commissioner can manually select 100 cases only. After seeing the result of that, we found that still there is corruption. As a result, this year we have totally done away with this thing. There is no scrutiny – I am mentioning this also as an information for all of you, that now there is no physical scrutiny selection in Income Tax Department. As on today, the computer is doing scrutiny selection. All the e-filed returns are already there. All the returns which are manually filed are also put in the computer. Then, different parameters are put in the computer which are changed and refined every year, depending upon the analysis of the data which we already have. On that basis, the machine is run and random pick-up is done. Even we at the helm of affairs, do not
know which case is going to be under scrutiny and which not. So this is a top secret thing. Even in the Board when the parameters are decided, papers which are circulated are taken back once the meeting is over. So we don't know what are the criteria, that is decided there itself. All these cases which are selected are through that mode only. We have really been able to curb this great menace which was there and because we were getting a lot of grievances from the public.

Then we have got Aykar Sewa Kendras (ASK) now at different places, I wonder if any of you has been to one. Till last year we had 132 Aykar Sewa Kendras and this year we are going to open 58 more so the total will be 190 at the end of this year, in two months’ time. There is a single window where you can file your return, you can file your letter, you can file your grievance - you can file anything and it is bar coded. A receipt will be given to you, it is bar coded, it gives the time lines within which your work is to be done. Suppose you have not been able to get the refund within this period, you can trace out through e-mail where this has gone, why it has not been taken etc. Hence, it is a record of all the data which we are receiving so that no hanky panky can be done with that data. Once a Centre gets established, than we take BIS Certification also. Up to now 35 of our Centres have already got BIS certification IS:15700 and others are in the pipeline. It is a very rigorous examination before the certificate is given out, but we are coming up to the expectations of the public, and this has done a great service. Even the Citizen Charter is given which lists the time line for each work, because it is required to be displayed at every ASK Centre. There is an ASK centre in almost all big cities, and we are increasing the number of centres.

Other than the Aykar Sampark Kendras, there are the Call Centres for which we have given a toll free number 18001801961, or you can say only 1961 because 1961 was the year when this Act came into being. There are 5 Call Centres all over India - Jangipur, Shillong, Jammu, Kochi and one in Gurgaon. Your calls are attended to there and they are replied in different regional languages, English and of course Hindi. Hence, problems of the people are solved, and we also keep a record of that.

We also have a non-intrusive information driven approach, so that we have least interface. Therefore, we have put a section in the Act itself where automatically information comes to us or there are some areas where information can be gathered by the Department within the notices. Every year we are getting about 4 million pieces of information. In the beginning we had a problem of how to use it, it is all non-intrusive, no letter as such is sent, but it automatically comes through banks or through Demat accounts and others. After that is how to really utilize the data. We did not have manpower, we did not have the material and we did not have the technology at that time, and therefore we were not really able to use this. But last
year we started our Data Warehousing and Information Business Centre in the Department. We started a pilot project in February and there was such a good response, we just selected, we dug out the information, we selected the big assessees, who have made big investments but have not filed their returns. So we sent them letters, that as per our data this is the investment you have made but in your return - we could interlink with the return - this is not there, please tell where your return is. We got a tremendous response, in the first instance, we were able to pin point 1219000 assessees, and issue notices. Up till now, 344486 have filed their returns, but some have filed more than one return, and the total returns filed are actually 536220. Then, the amount of tax which we have been able to collect without giving a notice - it is only a polite letter which is sent - is more than Rs.1900 crores. The process is on, already another list has been prepared of 23 lakh people who have invested but not shown it in their returns.

But here also we did not take them by surprise. Last year, if anybody remembers, in the month of March we issued an advertisement campaign titled “you know, we know” and we have given the figures also. Pehle Bandar ghudkiya ho sakti thee, lekin phichli baar Bandar ghudki bilkul nahin thi (The first time it could have been an empty threat, but this time it was definitely not one). We have the information, we have analysed it, and we said that “you know, we know”. People did not believe in the beginning, so they bluffed us. Only 60% people came, 40% did not reply. We made committees for different areas in big cities, and then we sent them after such defaulters. As on today, they know we know, and whenever we go and we address like this they are surprised and they ask, “yeh sab aapko kaise maalum hai?” (how do you know this?)

This information has now been passed on to all the dash boards of our officers, this we are doing centrally and to all the AOs (Assessing Officers). They will be issuing the notice now. For the new list of 23 lakh we have got, we are issuing it to the officers so that they can issue the notices now. So, we tell them beforehand what we are going to do, please file your return and show your income honestly. We don’t want that corruption but we want everybody, every citizen who is living in this civilized society, to pay his part of the tax, which is the tax on them for living in a civilized society. So this is the way we have tried to generate tax, but at the same time reduced corruption by leveraging technology in Income Tax Department.

I have already told you about Data Warehouses and Business Intelligence. After doing that pilot project now we have a new challenge. In our Results Framework Document, we gave a presentation to FM, he was much impressed, and within a day, he cleared it. It has already been cleared and now we are in the process of implementing it, putting it in place, and very soon, by 2015, it will be in place. I am very sure that after that information from third party, the 360 degree profiling of each assessees will be done without their knowledge and without harming them. We have the Google to collect the information, we have the Internal Financial Units (IFUs) to collect the information, we have the information from other parties, we have banks
for information, we will collect the information, have it analysed and we will be putting it in practice without burdening anybody. Just give me a tinkle and bring that Government tax to the Government coffers, without corruption, reducing corruption.

I may say another important thing, which is very important for all of you and that is opening of a new Central Processing Centre for Tax Deducted at Source. TDS was a big problem for salaried people also. Tax is deducted at source, but not being deposited by the deductor. So we have made many changes in the CPC TDS. There is one CPC Bengaluru; we have CPC (Central Processing Centre) TDS in Vaishali which started last year and as on today, out of the total 12 lakh deductors in India, 9.85 lakh deductors are already registered with CPC. Then, already we have processed 92.52 lakh returns with statements of TDS which is 98% of the total returns filed by the people. You see the process, the speed with which the technology is being used. After that, the defaulters who have not filed, you will be surprised to know that the number of defaulter notices which we have issued and which we have been processing is 75.81 lakhs. This was the limit, they were not filing the tax they have deducted, they were not depositing in the Government coffers but 75.81 lakh people have been caught and they are depositing it now.

We have adopted a process, where details of all the taxes you have paid comes in 26AS. The latest innovation which we have made is that in the month of March, Form 16 & 16A can be downloaded only from the system. While earlier they could have been fraudulent or spurious, but now you cannot issue any paper. You can only download it from the system after you have deposited the tax. So while issuing form 16 and 16A, the taxes have to be first deposited, only then the deductor can download and issue it. So please ask for your TDS your certificate, but that should be the one which has been downloaded and has the number of the TRACES portal for TDS.

The last project which we are bringing in is the ITPA, which will totally comprehend and put at one place all the systems which we have - CPC TDS, the Data Warehousing, CPC Bengaluru- this will all be totally connected together. This will help us to address the administrative problems that Mr Satyanarayana mentioned. Even the data with regard to manpower and others, they will also be incorporated in this ITPA system. It is already working, one phase is complete. A small phase, that is, training of 20000 Income Tax officials every year is complete, but the entire system will come into being in April 2015. After that income tax department will have a new horizon to really trace.

I may mention the different awards and recognitions we have got. Government Business Processing Re-engineering Award, Silver Award in 2008 for e-filing, PMO award for Excellence in Public Administration in 2008 and 2009 for Integrated Data Management System, ISO:1548
certificate for record management in 35 ASK centres, National e-Governance Gold Award for CPC in 2011, Path Finder Award by Data Quest magazine in 2011. These are different awards we have already got for e-filing.

Having said that, we have come a long way so far, as Income Tax Department is concerned. We know there are still glitches, but we will keep on improving on these things. We would certainly want to advise other departments also that technology is a great game changer. They should adopt technology, they should change the mind-set of the people that we are the stake holders, they are also the stake holder, so we should be facilitators we should not be the bosses. That is the change of mind set we need in our manpower also, then we can make our systems citizen friendly. Citizen Charter should be there, we should have some business visionary statements to bench mark performance and I am very sure that technology, the way it has taken Income Tax forward, will certainly help other Departments also to make their benchmarks and come forward to reduce corruption.

Thank you.

Remarks by Chairperson

Thanks for a comprehensive account of the strategy that has been followed in IT department. It goes to actually reinforce what I said in the opening remarks. They have used all the principles like eliminations, simplifications, standardization, automation, self-service, revamping the delivery channels and other things. So we must all compliment and take a leaf out of what the Income Tax department has done.

One more thing that I would like to point out is that they have also tried to transfer the onus, which was with the citizens, to the Government side. For everything you attach, you make some attachment 16, 16A, 14 whatever, usually it is the citizens job to go and get it. But here, no such thing is now required. So the onus has been considerably shifted from the citizen's shoulder to the Government itself. Of course, the onus of investigation also, which cases to pick up, that was a very valuable onus, has also been taken away and centralized. We must compliment the IT Department for all these good BPR steps.

Remarks by Shri M.J. Joseph- Additional Secretary, Ministry of Corporate Affairs

Firstly, let me thank CVC for having given me this opportunity to speak to you on this topic of Combating Corruption by using technology. And also to you, Sir, Mr Satyanarayana, for being part of this MCA-21 project. You were a part of this project since its conception, right through its implementation in Phase 1, and as well as now that we have entered Phase 2 of
this project, you have always been a great support to us. Specially, I remember last year when our flagship programme faced turbulence, when there was a change in the service provider, which again is part of the risks that takes place with technology. I certainly am a supporter of technology, but technology cuts both ways. And last year we faced the problem, when there was turbulence on our portal.

For the next 15 minutes, I will restrict my talk to four areas. One, what is this MCA-21? I don’t know how many, if at all, would have visited the office of the Registrar of Companies (RoC) in any State. What is the state of affairs in that office, which is there in about 20 locations in India? Practically one ROC in every state, some of the smaller states are bunched together. What functions they perform, what was state of affairs before we started Phase 1 in 2006? It’s now 7 and half years since the implementation. We have now embarked on Phase 2. It is a different programme altogether. What we have actually gained in the last 7 years is what I would really touch upon, the benefits and the outcome. The third aspect is the replicability, the way forward for other States Governments or other government departments looking at computerization - does this project serve as a model for any of their efforts? Finally, some views on the way forward.

But first, Shri Satyanarayana sir, you mentioned about the complexities of the Income Tax Act. I don’t know how many of us have actually read the Companies Act of 1956. It would probably rival the Income Tax act in every manner-in depth, in detail, in scope and so on. In 1956, there were about 30 thousand companies that were formed in India, that we have as a database. In fact, the first company that was registered under the Companies Act was Hindustan Unilever Ltd and that came as a merger between the then Hindustan Vegetable Oil Company with Unilever Brothers, and that took place on the 1st April 1956. Today you have about 13 lakh corporates, 13 lakh companies all over India. In 2006, there were about 5 to 6 lakh companies and since then there has been a growth of 6 to 7 lakh. But, in this period from 1956 with all the complexities of the Company Law, sometimes it is surprising how companies actually started, how many people wanted to start the companies, but there were such rigid requirements to start a company that they could not. As you know, that is one part of the problem. The bigger problem, and is it’s equally or perhaps the bigger problem, to close a company in India. Starting is ok, but closing down a company is even more difficult, frankly even till now. Of course a lot of it has been addressed in the new Companies Law, which has been passed by Parliament, notified and with effect from 1st April this year we are going to notify most of the Rules under the Act. But again, a bigger game changer is the legal framework, but technology certainly helped out.

In 2006, as I mentioned, there were about some 6 lakh companies, and all these companies are under the Companies Law, are statutorily required to file various kinds of forms, documents
and so on as part of the compliance requirements. The point of presence is mostly in a State capital though certain small States were bunched together and they have to move from place to place. So you can imagine what the state of affairs would have been. Mainly the biggest stake holders here are corporates; not many of us have probably dealt with how to set up a section 25 company, if at all. But otherwise, most of these provisions in the Companies Law really affect the life and growth and development of a corporate.

The whole project was initially conceived to be a service delivery model. Years before 2006, computerization was tried but, bringing in computers to do the work never really solved the problem at all. The Government spent something like Rs.20 crores, or so I am told, but it got you nowhere at all.

And that is when there was an honest realization that we need to change, as Mr Satyanarayana mentioned; we need to adopt the reform based approach. We needed to keep making it a service delivery platform—what services need to be provided in the best possible manner, without delays, without discretion, by avoiding any kind of human interface. So that was how it was thought of, and conceived and putting the corporate representative there who had to go and face the drudgery of going to the Office of the Registrar of Companies, to go and file, for instance, for changing the name or the address of the company, or if there were changes in the composition in the Board of Directors, or if he wanted a name to be used or change in address, change in share capital. Whatever it is, he had to spend a couple of days, and then be exposed to what we know exactly as corruption. In 2006, Friends, you will be amazed to know the amount of paper work there had to be digitized in this project. Six crore pages had to be digitized. That was huge amount of legacy data which had be digitized and brought in the MCA-21 system and this was a daunting task. Nevertheless the Ministry of Corporate Affairs decided to bite the bullet. There was no question of any half-hearted measures, not just computerization, but to look at it seriously as a reform based project to improve service delivery. What are the services to be given out to the corporate and in what possible manner, that was the approach.

This project was launched in 2006. The queues, as I am told, that used to exist were almost about a mile long, in some of our ROC offices at that time. And of course, the points of payment present were also very, very few. Most of the payments that had to be made for any filing of any document or any form or something like that would be either in cash or as demand draft. There was no question of any e-payments at all and you can well imagine the amount of, just like the income tax department, probably, the kind of record room maintenance issues that we also faced. There was a huge amount of paper work, if anybody had to file a form at that point in time. So these were the broad problems that were faced by India’s corporates, and
you can well imagine what kind of impact would have been there in terms of loss in efficiency, delays and so on and of course it was exasperating for anybody even to think of starting a company in our country.

Having said that, the way that the project was conceived was enhancing availability of the services that are required to be given to corporates 24x7, any time, anywhere. Public could view documents on anything, anytime, anywhere. You have to improve the processes necessarily, as Shri Satyanarayana mentioned through business process re-engineering. There are a lot of points, a lot of issues, a lot of information that was being collected in those forms which were really redundant and not really required. If we had to make some changes, then we had to make changes as well in the Companies Act. So a lot of legislative changes and amendments had to take place at the same time. The other changes in the forms and so on had to go side by side. In Phase 1 that was launched, it was decided that this project would be based on an outsourced model, BOOT and in the bidding that took place it was TCS that won the contract, at an estimated cost of about Rs.357 crores. They were given some amount of time for its implementation, then to run the services, and that period ended last year in January 2013. Since then, there has been a different service provider because Phase 2 had to go back again for global tender. The new service provider selected this time was Infosys. So Infosys is presently running the portal, running its services, and this is one of the problems I would say about technology again, because yes it is a great enabler, it helps a lot but we did face a lot of turbulence last year after the new service provider took over. Shri Satyanarayana had helped out a lot through the Department of Electronics in terms of giving us support, advice and guidance in terms of bringing back the services. The good news is that for the last few months the services have stabilized and they are working very well.

Let me just talk a little bit about the outcomes and benefits that have actually resulted to the stake holders, as a result of MCA-21. The first benefit clearly is for business - they can now file their returns - statutory returns, annual returns, balance sheets, financial statements, everything – which can be filed anywhere, any time. Earlier, it would take them days perhaps to go an office of the Registrar of the Companies, and file documents there. It also provides for a uniform single point place for filing all documents. The latest information on anything that they want is available online. The second outcome as far as the benefits for the public are concerned, is that the public can access any of the records of any company, anytime, anywhere, any place. They can also obtain certified copies of whatever information they want to obtain about the corporate concerned. As far as benefits for the Government is concerned, it has not only fulfilled the statutory requirement of Government providing better and improved service delivery to corporates, and all of you would certainly have heard at some point of time or other, that this is a major initiative taken by the Government, to provide best quality service to corporates in recent times.
The Ministry of Corporate Affairs as part of this project, has also tied up with the Income Tax Department as far as the PAN income tax database is concerned. There are many issues, for example, if a company is being incorporated and the Director's names etc have to be checked and cross checked, we have an access directly linked with the Income Tax Department, we are also connected to the Trade Mark Authority as far as the names of companies which sometimes overlap. So if a name has already been taken up by some other company, you can independently cross check it, otherwise the name will have to be changed. There have been benefits as well for banks and for financial institutions. One of the Forms that have to be statutorily filled up by every corporate who takes a loan by mortgaging its assets, is the Form to do with the charges of mortgage where it has taken. And this information is available with the banks and financial institutions when they have to do their credit evaluation and on the performance of their loans etc.

I'll just give you some statistics how the MCA-21 has improved services as far as benefits are concerned. Prior to 2006, it used to take 10 days for a company to get a name, approved by the ROC. Today it is practically instantaneous, otherwise it is done in one day. It would take about 25 days for the incorporation of a company earlier. Today it takes about 3 to 4 days, perhaps even less. It used to take about 60 days to file balance sheets and annual reports. Today it is done practically instantly because it goes through, the Straight Through Processing (STP) route. Changes in Directors of Companies used to take perhaps about 60 days, today it is done in one day. For inspection of public documents, the public had to necessarily go to the office of a Registrar of Companies to get information, today it is instant and online. It helps the media a lot, when it comes to investigating some of the kind of financial frauds etc. when they are reported upon.

Let me just share a few thoughts about the road ahead. We have been sitting on a lot of data covering financial information of about 13 lakh corporates. The question is, are we just going to keep it as a repository, or are we going to do something about it? All of us are aware of the kind of financial frauds that are taking place in our country. I have also been to oversee some amount of investigation work that is done by our Serious Frauds Investigation Office under our Ministry. So what we decided to do now is to launch a data-mining project, which can identify certain kinds of parameters which can probably be used as an alert, as a red alert, where it comes to scrutiny and examination of various kinds of companies. You don't know when a financial fraud has really gone ahead, and you don't have to wait for the fraud to take place to take action. The whole idea is to use this wealth of information of the financial health of corporate that exists, and try to design a data-mining project which we have called as a Fraud Prediction Model or an early warning system, to predict even before a fraud takes place, that some companies are liable to go this route. We have a lot of historical data about various
kinds of cases of companies which committed frauds and using that, we are attempting this exercise. It is quite a major, ambitious exercise but I think we will get somewhere.

But there is one thing that I would like to caution again, when we talk about technology. Yes, it's all gung ho, it is all good to talk about it as if everything is going to be done through technology and as if corruption is just going to go away. To a great extent is has disappeared away from our system, certainly it has. But in recent times I am a little concerned that the kind of financial information that is being allowed to go through in this STP mode (Straight Through Processing), the system accepts it. The question is whether any checks are done, the validity of that information. What if a Chartered Accountant just files in a blank sheet of paper and is not detected in the system? These are the dangers. So in our desire to go overboard and help and facilitate the corporates etc., I think we need to be equally vigilant that it is not the wrong kind of data that actually gets filled in. So I will be little more careful in my views about endorsing technology 100 percent. It is not as if it can replace human intelligence or anything that the human mind is better suited to do. Yes, a lot of drudgery can go way, but certainly in this world I think we need to be a little more careful about blindly accepting information. Otherwise I don’t think we are probably going to improve governance everywhere.

We are now in Phase 2, of this project, and this phase has many ambitious, daunting tasks, apart from up gradation of equipment and so on. I don’t know how many of you have heard of the Office of the Official Liquidator. It is the office that is concerned with liquidating a company. It is very difficult to even close down a company. We are now embarking on a full automation of the Office of the Official Liquidator in different States, so as to make the liquidation process that much more transparent. For instance there is going to be an e-auction that is going to be conducted, of the assets of a company that is facing financial distress, instead of going through the manual process of bidding etc. This is one of our major areas of concern, taken up in the second phase of the MCA-21.

As far as replicability is concerned, I think it’s already showing. The Department of Industry Policy & and Promotion (DIPP) is launching its e-biz project, where a refund and payment module is sought to be brought in. It is a very efficient system that permits a double paying customer to even get back his refund online itself, rather than to go through the physical route. It is certainly applicable for many State Governments that perform functions to do with registration, to do with societies and trusts. It certainly has a lot of relevance to them. And finally, I would say that I think essentially it was the RFP document that was used in the case of MCA-21 that probably can be studied by other department or any State Government that intends to emulate the MCA-21 example.

Thank you very much, ladies & gentlemen.
Remarks by Chairman

A few takeaways from his talk are the following - that is, there is need for strategic control to be kept with the government in choosing their public-private partnership model. Otherwise there will be problems in transition - problem of trust and other aspects that come. So strategic control is very important in using IT through an outsourced mode or through a public private partnership model. Second point that comes out is the importance of SLAs (Service Level Agreements) in ensuring that the commitments are really realized when the project is implemented and payments are regulatory account to that SLA and compliance with the SLA. The third is the kind of transparency that has come about by throwing out paper based documents to converting into digital documents and throwing it to open to the whole world. And, last but not least, is the caution that Joseph has sounded on being vigilant despite all the automation, all the IT & technology that we use, the element of human assessment that should be there for the vigilance aspect. I think it was a good presentation on MCA-21.

Remarks by Shri Vijay S. Madan - Director General and Mission Director, Unique Identification Authority of India

Chairman of the Panel, Shri Satyanarayana and fellow panelists, distinguished persons in the audience, ladies and gentlemen, Good afternoon to you all.

As the Chairman has just said, ‘Aadhaar’ has been taken as a game changer, a transformational kind of project and it has raised the expectations of being able to deliver a lot of things. In the next fifteen minutes I will try to cover the challenges possible to be met.

Basically, the vision of Aadhaar is to empower the citizen, the residents of India with a unique identity, and to create a digital platform, where the person can authenticate his identity at anytime, anywhere, at low cost. It is an enabling platform, which increases transparency. It is probably the largest platform being made that is capable of preventing corrupt practices, particularly at the transaction level and increases the efficiency of operations, elimination of wastages, pilferages and leakages. I will basically cover this portion in three or four different topics but first I will give a little background of what Aadhaar is.

I am sure a lot of people know very well what Aadhaar is. Aadhaar is a 12 digit random number. It has no intelligence; it does not profile any data. It is based on the very limited data collected about the residence, name, age, gender, plus four demographic fields, photograph and biometric information which is in the form of 10 finger prints and two eyes. This is all the information which is collected. Two more fields which are taken on an optional basis include mobile number and email-address. Not everybody has given it, as it is optional. But 40% persons have given mobile numbers and 2-3% has given email-addresses.
This is a unique number for an individual. No two individuals can have the same number. One individual can have not more than one number and not have two numbers, and this we try at an accuracy level of 99.99% which means that the possibility of duplicates is less than 0.01%. When we talk of other systems where the duplication is done or generally cannot be done for various reasons, the level of duplicates and fakes may range from 35 to 40%.

To ensure a level of less than 0.5% error is a huge transition. It is not a proof of citizenship, identity of the residence and it can be authenticated anywhere. The entire data is put in the Central ID Repository (CIDR) which is located at two data Centres at Bengaluru and Greater Noida. For any person authenticating data from anywhere, actually his data travels over small packets by internet or broad and/or narrow band. Authentication is a matter of a second and the answer given is a yes or no which verifies the person who has given his biometrics.

Now whether this data corresponds with the data given at the time of enrolment with the authentication process is crucial. We have currently about 58 crore plus Aadhaar members or individuals on this “one person, one identity” basis. It is a four value proposition. The first is its uniqueness, which, as I said earlier, is that no two persons can have one number and no one person can have two numbers. This number can be linked to any database, say, ration card or PAN card or DIN number or the list of beneficiaries of NREGA workers, just about any data base. Running through it can easily be done to weed out the people who are covered more than once and those cases where Aadhaar number is not reflected. Through it we can very easily remove all the duplicates and all fakes. When we did this to LPG beneficiaries it was seen that there were 15% of the entries where the corresponding Aadhaar number did not exist. Almost 15% of the people, were found to be where the corresponding Aadhaar number does not exist. A lot of them were duplicate entries. If a person had more than one connection, it could be identified and then he could be given a choice where he wanted to have it. So all these possibilities are real life possibilities, they are tested out and they are part of the system. Such interlinking of data uses a silo approach, which means when we give the number or give the beneficiary database the reverse information is not collected by UID. Even if it is sent to us by mistake, it is purged out and there is a reason behind that which is that information remains in different silos, privacy of the individual is ensured.

The movement of the information from one silo to the other, will still have to follow the same procedure of law which is otherwise required to be done so it is not a collection or pooling of data about the individual in one place but only linking of this identity in each of the different databases. It can be linked to a bank account or to a beneficiaries’ list, so this is the first value proposition that is uniqueness.

The second value proposition is that this identity can be authenticated at any time, at any place so the person can be identified at the point of accessing the services. This validates the identity
of the person who is indeed the person he is claiming to be. Which means that unauthorized
dipping into someone else’s benefits or accessing some benefits or services on behalf of some
another person is just not possible. This provides the exact identity of the beneficiary and
pinpoints the person who is entitled to benefits and he alone can obtain it.

The third value proposition is that Aadhaar functions as a permanent, maintenance free,
financial address. Once Aadhaar is linked to a particular bank account it can be used as an
address to which money can be sent to an individual, by government or corporate, or any
other individual and this also allows the person who is linked to the Aadhaar, to be able to
access his account through his bio-metrics from any ATM or micro ATM. So a business
correspondent who may be carrying a small instrument of identification can actually outreach.
It is a very important tool of financial inclusion of opening new accounts, of linking up
the bank accounts with that. It also adds to the direct payment from the payer to the payee
in one transaction. All the middle levels of transmission can be eliminated. Not only is it a
faster, instantaneous method of doing it, but it is also done with complete transparency and
traceability.

The last and fourth value proposition is something which is actually a unique proposition that
is not being tried anywhere in the world. This is that Aadhaar functions on an electronic know-
your-customer (KYC). In this any service provider who needs to have details typically asks for
proof of identity or a proof of address to be deposited. These too can be either scanned or
kept in a digital format.

This again goes to a document panel system and there are ways of checking whether the
papers given are actually the correct papers or verified papers, whether it is a fake or whatever.
In the electronic KYC a person walks into the premises of a service provider, gives his finger
print or iris, authenticates and with that is inherent an authorization to the UIDAI to transmit
a file containing his demographic details i.e. name, age, gender, address and the photograph.
Packet data containing these five things is transmitted as an encrypted file, digitally signed to a
UIDAI server directly to the server of the service provider. The entire process takes a couple
of seconds. The advantage is that a person without carrying any other document is able to
give his full details of KYC to file whatever proof of address or proof of identity in a digital
form issued by the issuing authority itself. The whole process is instantaneous, low cost and
environment friendly, because the entire document management system and other things are
now not required to be involved.

These are the four value prepositions on which the entire scheme is built. If you look at this
now and see these four and apply to any program that is being run, which involves individually
one application it will be of help as we will be able to eliminate a number of practices which
have come to constitute malpractices or corrupt practices. Just to give an idea of what is involved in the scale of operations, it is Rs. 58 crores.

Going forward, currently, we have capacity to generate/process 1.5 million packets per day. Going at that speed, we are able to process once the enrolment packets are available to us, this number during the recent weeks. Earlier we were getting more than a million packets as enrolment packets. We have capacity now to generate, 3-4 crore Aadhaar numbers per month. As we stand, if the process of enrolment continues unabated, it is actually possible to do more than a billion or billion plus number in the next 15-18 months to cover the entire population. The capacity to print is matching up. We handled the backlog, and are now trying to liquidate the backlog. We are printing about 15 lakh letters per day and dispatching them on daily basis i.e. several thousand postal bags in several trucks together.

The long term implication of this is that we expect that almost every department which deals with individuals will, over a period of time, link every individual with their Aadhaar numbers, so that they will be able to re-validate their list, which means they exactly know who is what. The information remains in their silos, so privacy is fully honoured and maintained. The targeting of benefits or facilities can be made in a pin pointed fashion and any malpractices or corrupt practices emanating out of duplicate and fakes are actually finished.

Thank you very much.

**Remarks by Shri Arup Roy Choudhury – CMD, National Thermal Power Corporation (NTPC)**

Respected Chairman Sir, and my fellow Panelists,

My presentation will be to talk of BPR (Business Process Reengineering). Let me say that what we have done in NTPC to do our BPR. I would not call this word as corruption; I would say that mistakes are minimized. NTPC is a very honest organization. There is hardly any corruption here and there is no complaint. My CVO is sitting here, he can certify that there is no complaint against any process which happens in NTPC and we are proud of that.

Let me say that I think a technology built by human beings is as good as the human being who wants to use it. So even if you have the best of technology it need not eradicate corruption. This is what I would like to start with. Let me start by saying by what we are doing in NTPC, which we found to be very successful in all aspects of our operations. We have introduced technology and I would divide my talk into four parts - the lack of transparency, improving transparency through technology, inadequate competition and creating competition through technology.
Lack of information is something which creates corruption. The challenge is how to increase information. We are the largest power producer in the country, our annual turnover is Rs.70,000 crore and the profit is about Rs.10,000 crore. In such a huge operation it is not that there are no avenues of corruption. We are stationed all over India. That is why we need technology, because we have to control operations all over India and if you see, we are a very efficient organization. We have only 18% of India’s installed capacity but we generate 27% of India’s total electricity and we want to also grow at a very high pace. Our capex for the 12th Plan is Rs.1,55,000 crores which is a huge order and there will be chances for corruption.

The power sector, as you all know, is going through a lot of difficulties. Let me say that what technology we are adopting. I started by saying that we thought there were four areas which create corruption, so I would today restrict myself to how we really handle this. We have everything on our website. You can go to our website, the NIT details are there, the post bid details are there, the integrity pact which we signed and with whom are also available there, all payments are e-payments so there is no cash transaction, there is no cheque issued it has all to be paid through e-portal. So there is no chance of human interface. The payment, the bill payment status of every vendor is displayed on the website. All NIT are issued on the website, queries are sent through emails, there is no human interface at all. We place orders to the tune of Rs.25,000-30,000 crores every year. The terms and conditions of the bids, everything is put transparently on the website and it is available electronically, so you can have a look at it.

We also have methods to handle lack of information. It is the lack of information which creates corruption. We have devised methods so that everything has become very specific. We have gone into details to the extent that the allegation is that we don’t even budge an inch and are a “lakkar ke fakeer”, that is the word being used for us. If you want to use technology to become transparent, you better stick to it otherwise corruption can always creep in. Human manipulation is one area which actually increases corruption. In NTPC there are no human interactions. We have removed all sources of human interaction.

We also have a fraud prevention policy. This policy is also available on our website. In recruitment there is no chance of any corruption. The applicant has to apply directly online and the scrutiny is done online. We believe the applicant and therefore the person brings his testimonials at the time of interview and, if the testimonials are not there or found to be fraudulent, that is the time we take action. We ban the candidate. We recruit about 380 ETs every year based on the all-India score so there is no way that anybody can manipulate on recruitment.

On the welfare side sometimes we have many schemes. Our CSR budget itself is about Rs.200 crores. We want to see that everything is based on a database system, what can be done, what
cannot be done, what is the way of doing it and what is the estimated cost of a particular thing, we want to do so there is no human manipulation.

In conclusion, vigilance is not a stand alone activity. It has to be seen as a part of an overall Risk Management Strategy of any organization. NTPC has reengineered its processes by leveraging information technology to prevent mistakes and control malafides, which is very important. Most of the times it is mistakes and some times it is malafide, so we have institutional positions to control mistakes and also catch those who indulge in malafides.

Thank you so much.
PLENARY 2

CORPORATE ETHICS: MOVING BEYOND DILEMMAS

- Addressing concerns of supply side corruption
- Instilling Integrity and Transparency in the Private Sector
- Disclosure norms and improving compliance
- Strengthening Corporate Governance and Ethics
- UNCAC compliance to Article 12 – Prevention of corruption in Private Sector
PANELISTS

Chair: Shri P. Chidambaram  Minister of Finance

Speakers:
(i) Shri Ashok Chawla  Chairman, Competition Commission
(ii) Shri Sidharth Birla  President, FICCI
(iii) Shri Ajay S. Shriram  President Designate, CII
(iv) Prof. Jayati Ghosh  School of Social Sciences, JNU

COMPERES
Shri Munish Jolly, EIL
Ms. Seema Rawal, BHEL

RAPPORTEURS
Shri K Ravindran, NTPC
Ms. Jayati De, BHEL
Introductory Remarks by Shri P. Chidambaram, Minister of Finance

This is a panel discussion on “Corporate Ethics - Moving beyond dilemmas”. I am afraid the way we are seated here does not quite help us discuss it as a panel. So I have asked my fellow panelists and we decided each one will take about 10 to 12 minutes to spell out his/her views. Then I intend to allow about 15 or 20 minutes at the end for interaction with the audience. It’s fun to be Chairman, you have to speak less and listen more, so I intend to follow my own rule and speak for no more than about 7 or 8 minutes. May be if I am provoked enough, I may intervene later. But knowing the four of them, I doubt whether, anyone is going to say anything very provocative, but I urge them to say something provocative.

We are talking about corporate ethics and let me state my position on a Joint Stock Company. The Joint Stock Company is perhaps the finest invention of the human mind to promote business. Without the form of a Joint Stock Company, I do not think business could have been so innovative, so enterprising, and so inventive. It is also true that without the Joint Stock Company, businesses could not have grown so big. Those who think that big is bad will naturally think that the fault lies with the form of a Joint Stock Company. But if you look at the history of all countries that have become prosperous, and some of them have done so, in less than 50 years, some have taken over 200 years to become very rich countries, but some have done it in less than 50 years and if you wish me to cite examples of the latter, I can straight away point to Korea and Malaysia.

So, I think the Joint Stock Company is an important structure of any economy and we must ensure that we don’t destroy the form of a Joint Stock Company. However, the structure gave room and still gives room to hide many sins.

The most important abuse of the structure is layering of companies. One company holds another company, company B holds company C, company C holds company D. So the operating company is removed from the persons who really own and control the company. This gives them an opportunity to hide many sins, to hide many malpractices and hide acts of corruption. The layering of companies has given rise to a problem. The other is interlocking companies; A holds shares in B, B holds shares in C, C holds shares in D then D holds shares in B & C, B holds shares in A & E, E holds shares in A & C. If you interlock companies, it is very difficult to understand who owns what in any given time. So layering is one problem, interlocking is another problem. The third problem with Joint Stock Company is the real
owners, the real controllers deny or avoid personal liability hiding behind the fact that a company is a legal entity.

But let us remember what was said of companies, it does not have a body to be kicked or a soul to be damned. Ultimately, it is the ownership and control of companies and who owns and who controls companies that should decide who the company is. While we recognise these problems with the form of a company, how do we deal with issues of corruption, promoting integrity and transparency? After many many years, actually after nearly 60 years, we now have a new Companies Act. The Companies Act has been in the works for many months in fact some years and we now have a structure which I believe is a great step forward from the structure we had with the old Companies Act.

The new Companies Act stresses on transparency through better disclosures and better accountability. I do not wish to list the disclosures required by the new Companies Act, but the disclosures about the original promoters and Directors, disclosures must be made of cash flow statement, accounts of subsidiaries, related party transactions, a company must have a risk management policy, it must file several returns with the registrar and it must disclose matters like related party transaction, shareholding of promoters, changes in share holders, pattern, private placement of securities, ratio of remuneration of each Director to the median employees remuneration. So it lays great stress on disclosure. The second aspect of the new Companies Act is, it lays emphasis on self regulation. The first level of regulation is self regulation and any deviations must be regulated by the Board of Directors especially the independent Directors and the committees of Directors like audit committee and then by the shareholders. So the second key aspect of the new Companies Act is self regulation. The third aspect is enforcing accountability through external bodies and the external influences are the independent Director and the auditor. And finally, there is the Registrar of Companies who is a regulator, who has been given enhanced powers of enforcement and the Serious Frauds Office has been made a statutory body. I think all of you are familiar with the key provisions of the Companies Act, so I shall not dwell upon it at a greater length.

Now, how do we improve integrity and transparency? I am a great believer in self regulation. Therefore, I will begin there and I will list what in my view is the manner in which to enforce greater integrity and transparency. Firstly, we must keep faith in self regulation. If there are too many external regulators, I am afraid all initiative and all enterprise which is what is promoted by a Joint Stock Company will be completely killed. Whatever the form of business, there will be occasions and cases where people indulge in malpractices. I think, it is wrong to assume that partnerships are more honest or sole proprietorships are more ethical. It is wrong to assume that the public sector is more ethical than the private sector, it is wrong to assume
that if the Government places Directors on Boards all will be well with the world. These are assumptions which have been torpedoed by experience. As long as there is greed, there will be people who will violate the law. If we should not kill enterprise and initiative which is what drives a Joint Stock Company and brings large numbers of investors and large number of managers under a legal form, I think we must keep our faith in self-regulation.

We must also enforce compliance. It is not enough to place faith in self-regulation when we don’t enforce compliance. People must comply with reports, returns, disclosures. There must be compliance with the law. When there is deviation, we must place faith in the Board of Directors and then the shareholders, to punish deviations. I think Board of Directors have become quite vigilant these days especially with the law placing some degree of accountability on independent Directors. The law mandating committees such as the audit committee, the remuneration committee and some other committees are now required by law to be constituted. So we must place faith in the committees, the Board of Directors and the shareholders. I think shareholders meetings have now become the forum where an activist shareholder can pull up a management and hold it to account.

And finally, the Regulator or any arm of the Regulator must intervene but I would urge that they do so only in cases of gross violations or gross excesses or when there is a clear case of criminality. If any non-criminal deviation is to be investigated or regulated by the Regulator, I am afraid the Regulator will simply be overburdened with work and regulation will fail. Look at what has happened to our criminal courts. We are so frightened by the law that courts don’t grant bail, under trial prisoners languish in jail for many, many years because courts don’t grant bail. Some people have served terms in prison far in excess of the terms to which they could be sentenced and the criminal justice system has virtually broken down at the level of the lower magistracy. So I think the regulator must be very, very careful that intervention at the Regulator’s level should be only in exceptional cases of gross violation or proven criminality.

Even after the new Companies Act and even if you follow the four steps that I have laid down as a suggestion, there will be cases where people violate the law, people commit excesses, but that is because greed is a powerful driver of human behaviour. As long as there is greed, there will be people who violate the law. In fact, when that famous guy who perpetuated the stock market scam in the U.S. was asked why did you cheat so many people, he said but so many people want to be cheated. Greed drives them to take risks and greed gives an opportunity for people to violate the law. I don’t think they are going to banish greed in this world. We must find ways, in which we can promote business, promote enterprise, promote initiative, promote risk taking, promote the creation of wealth while punishing those who commit grave excesses of proven criminal acts.
So while I would strongly support the structure of the Companies Act, I would urge caution in the manner in which the powers are exercised. I would reiterate that we must place faith in self-regulation, we must enforce compliance, we must leave it to committees of Boards, the Board of Directors and the shareholders to exercise control of the companies and only in exceptional cases should the Regulator or any arm of the Regulator intervene to punish gross or grave cases of proven criminality.

With that, I think I will now ask the panelists to speak one after the other and hopefully we can have a discussion first among the panelists and then we can spare 15 or 20 minutes for interaction with audience.

Thank you.

**Remarks by Shri Ashok Chawla, Chairman, Competition Commission of India (CCI)**

Vigilance and integrity issues in relation to corporates are clearly the flavour of season. Intrinsically, if one looks back, when the Constitution was framed, the founding fathers placed such implicit trust in the public servants, in the social fabric and in the corporates. Of course, there was not that much business and corporate activity at that time and a vigilance organization or an integrity ombudsman was not part of the Constitutional framework.

There were three bodies, the Supreme Audit Institution, the Election Body and the Public Service Recruitment and HR issues which found a place in the Constitution. Obviously, time has changed the way dramatically over the years and a vigilance body, first as an Executive Institution and later as a Statutory Body, is now celebrating 50 years.

Corruption, integrity issues in relation to the corporate sector which is the theme of this morning’s session is something which the entire world recognizes now as very important in the architecture which looks at issues relating to corruption. This also brings in the supply side of issues that need to be focused on in relation to corruption and bribery and why this is so important now.

Why do we focus on corporate ethics? One is that the private sector’s role has become much bigger today, particularly in countries like India during the last 20 years or so. Private sector business activity as the other panelists will tell you, or the share of private sector in GDP has grown substantially and, therefore, it becomes an important paradigm to focus on. Secondly, business is no longer only domestic. Money knows no boundaries, businesses operate both ways, into the country and outside the country and therefore, a global paradigm puts greater emphasis on what is the behaviour of corporates in relation to ethical practices.
There is a forum called G-20 and the leaders of the G-20 nations have set-up a business forum under the umbrella of G-20 named as B-20. The B-20 has identified a number of topics which are very crucial for businesses across the world and it is no surprise that corruption is one of the priority issues identified by this B-20 group.

Three, the credibility and sustainability of the business is no longer a matter of choice. Whether you are upright and honest in terms of corporate and Joint Stock Company is actually a matter of necessity because that is how the credibility and sustainability of an individual entity and of a business group and a nation and society is built up.

Fourth, is the matter of perception which is related to reputation and is not just something intangible. It translates into something tangible which is the cost of doing business where studies have estimated that the cost of doing business increases if it is understood that corruption and bribery are embedded in the cost of doing business. The cost of raising the money goes up and certainly the cost of public procurement goes up. There are numbers floating around. But the fact remains that this becomes an important part of the problem, and therefore, we all need to focus on corporate ethics.

Let me tell you how this can be handled. The Chairperson of the panel has mentioned regulation and more importantly self-regulation to handle this. I have also tried to identify a couple of quick points in the time allotted to me. The first is good corporate governance. It sounds simple, very basic and fundamental but it actually starts from self-regulation and goes right up to external monitors which look at the behaviour of the corporates, whether it is actually appropriate, good or not. So these are fortunately well recognized by the business and the legal architects in the country and are slowly getting in place.

The next point after Corporate Governance is whether the compliance programmes are actually in position or not. Very often, when you talk to the corporate CEOs, whether in private sector or public sector and ask them about the compliance programme it sounds very good at the apex level. There are appropriate programmes in position which are good to look at but then the chain of operation or the pyramid goes very much across the whole spectrum that the compliance need to be internalized at various levels, whether it is from the shop floor to the CEO, whether from the field marketing person to right upto the top. That is a challenge and a test the corporates are slowly going through.

Number three is the role of the Board of Directors and fiduciary liability of the directors or independent directors. This is now attracting attention. In this context, it is important to look at something which is called Supervisory Board or a Council which oversees the activities of the various corporates within a particular group. This is a concept which has served well in
many countries of the world particularly the European companies and some Indian groups have adopted this practice. The supervisory board or governing council can bring to the table broad, good practices internal and somewhat external to the operations of a Joint Stock Company and stand a little away from the hurly-burly of daily operations and advise the management, the board and the CEOs of the corporate enterprises on how to actually carry forward the agenda of operating and the manner in which they should be operating.

Lastly, the debate comes to penalty which is necessary when there is violation, when the laws are not complied with by the corporate entity. Along with this issue, there should be some incentive in position for those companies which follow the law and this is not really yet a major issue for implementation in the Indian context. Let me mention that in the Competition Act, for instance, which the Competition Commission enforces, we have a clear provision (as this is a provision in many other countries also) that if the companies are operating as a cartel and some companies break away from the cartel and report to the Enforcer or the Regulator on what is going on and puts full information on the table, the law provides for leniency or lesser penalty on that corporate.

I think this whole balance between the penalties, sanctions and incentives is something which we need to look at as we go along. Then what is that by which both the businesses and government can make the journey easier, to make the journey less fraught with the risks of violation of integrity laws.

One, of course, is that the legal architecture needs to be upgraded and that process is going on. I think there is clear recognition of the kind of laws, amendments, appropriate bribery acts which are needed to be brought in and I think those are in the anvil. So, I will not really comment on those.

The second is awareness and sensitization and this is equally important and that is what the vigilance body at the centre as well state level and various stake holders through business forums can play a role in better informing the private sector personnel and the next generation of managers whether they are in the business schools or in the law schools and also the enforcement officials who are eventually going to do deal with the corporate and companies. I think this communication and awareness is most important.

Thirdly, and I am sure the business panelists will talk about this, is transparency in the public policy space. That is equally important because unless there is transparency from the side of the Government and the manner in which Government is going to handle and operate in certain areas, there is always the tendency on the other side of the people to try and jump the queue and take advantage. There is no dearth of examples. So, on the part of the Government restraint in terms of less discretion in policy matters and also allocation of pricing of factors of production and natural resources is necessary.
Finally, there is this issue of good laws and implementation. Robust implementation of laws in better spirit is required.

Thank you!

Remarks by Shri Sidharth Birla – President, Federation of Indian Chambers of Commerce and Industry (FICCI)

The core subject is both topical and important in the present socio-economic context. In my limited time, justice may not be done to all aspects outlined in the program brief. Much of my talk is about global experience, leading to a summary that corruption and ethics are not issues limited to India.

I begin from the conceptual origins of corporate ethics. This examines principles and moral issues arising in a business environment, applies to all aspects of business conduct and is relevant to conduct of individuals and organizations. It calls for dynamic understanding, as ethics reflect norms of a given period in time. Such norms evolve over time, causing behaviour tolerable at one point in time to be considered unacceptable at a later one. Global firms highlighted ethical statures post 1980s, probably to distance themselves from business scandals of the time. For some time, legitimate criticism was attacked both in media and academia for infringing on the “freedom” of businesses.

Peter Drucker later implied that standards of personal ethics should cover business situations too. Ethics issues in the latter include the rights and duties between a company and its employees, suppliers, customers, and its fiduciary responsibility to its shareholders. Stakeholders have the right to expect a business to be ethical.

Sometimes it is held that business is not bound by ethics other than just abiding by law. Friedman held the duty of business is “to make as much money as possible while conforming to basic rules of the society, both as embodied in law and in ethical custom”. A more balanced counter is that legal procedures are bureaucratic, rigid and obligatory whereas ethical acts are a voluntary choice. The foundation for ethical behaviour goes well beyond corporate culture and policies. It depends greatly upon an individual’s early moral training, the other institutions that affect an individual, the competitive business environment and, indeed, society as a whole. Ultimately, an equal burden lies in improving our own societal values and culture of “jugaad” and “impatience”, as it does on providing and enforcing laws.

Studies show that countries can reach middle income levels despite moderate corruption, but further progress can be based only on better institutional integrity. India is at this juncture and therefore needs better governance in general and addressing of corruption in particular. China and some other economies have been plagued with similar issues and have made efforts
to improve. We must follow suit and offer security of contract and property, to uphold our position as an investment destination and a trade partner.

Reforms in many countries could be strengthened if there was more visible evidence that governments are even-handed, attacking bribe givers and bribe takers with equal force. A lack of perceived balance weakens the hand of reformers. Globally, however, people concede that efforts to curb both sides of the corruption equation are still in early stages. Increase in public awareness of corruption is the prime catalyst for attacking the supply side.

A joint survey by FICCI & Ernst & Young (EY) titled ‘Bribery and corruption: Ground Realities in India’ (conducted from March to May 2013), was an attempt to seek corporate India’s perception of media reports, the country’s future and role of private sector. The results indicated that most organizations demonstrated an awareness of risks and intensified anti-bribery and corruption compliance policies. More often than not, corporations were compelled to undertake practices just to survive in a web of complex laws and regulations. In most situations, private sector was an unwilling participant left with little or no ethical choices. Nothing per se illegal was done within their own processes, but systemic procedural burdens which are onerous for private parties, were leveraged to obtain private gains.

Large scope for graft can exist in areas with power to offer a government contract, issue a license, or allocate a scarce resource. Such incidents create a trust deficit between Industry and Government and vitiate the business sentiment and investment environment. Recent events in India highlight the pressing need for a more constructive engagement between Industry and Government. We should press for a transparent regime, with little or no scope of discretion and a system where each side is strictly held to contract.

The business potential of the domestic market in India makes us a preferred investment jurisdiction. However, recent news have been mostly hard-hitting headlines on scams, graft, endemic corruption and lack of enforcement. These scare investors into re-evaluating their “being in India” strategy, distorts the functioning of a free market and creates unfair competition.

India’s attractiveness is a necessary but not a sufficient condition to obtain investments. The key challenge is to convert the base strength into real flows and the creation of enterprises and jobs. FDI flows into India are a fraction of what India merits. One important reason is the low ranking India holds in terms of the ease of doing business. Regulatory framework in India needs to be further improved. In this area the Damodaran Committee has covered considerable ground and its recommendations should be acted upon in earnest. One key recommendation is a greater participatory process during development of policies and reforms, which builds
trust amongst stakeholders. Our judicial system also needs efficiency so that implementation of contracts and dispute resolution become less onerous.

FICCI believes India should build a vision of rapidly ascending to a position in the Top 50 of the Doing Business rankings.

This takes me to another crucial component for the long term success of any policy, i.e. decision making process. Every decision has three critical ingredients: state of mind, analysis of the situation and the time limit within which the decision needs to be taken. It is probably impossible to replicate the same situations at a later date and therefore even the best of decisions can be alleged to be flawed when viewed in hindsight. Just as we need to avoid retrospective laws or policy and decision reversal without concrete grounds, the system must also temper its propensity to hindsight; key decisions must remain inviolate without prior due diligence and a rigorous process.

The Companies Act mandates certain companies to have a vigil mechanism. While there is merit, it is important to introduce checks and balances to ensure that only genuine actions, based on sound facts and not suppositions, are entertained. The Whistle-blowers Protection Bill, pending in Parliament, also has shortcomings which must be remedied.

The institution of independent directors is an important pillar on which corporate governance stands. They bring about an element of objectivity to Board processes in the general interest of the company and also to the benefit of shareholders, especially minority shareholders. Though the knowledge test criteria for independent directors has been built in the Act, it is important to ensure they are not hauled up as a routine measure, for no fault of theirs, and especially for technical issues. This could otherwise have a serious impact on directors where the intention is not of breach of trust or default, and actions were honest. Such a situation can be remedied via a non-obstante clause or through other appropriate legislation. This is a great need for corporate India.

In closing, I may add that FICCI has convened a high powered Council on Inclusive Governance to act as an umbrella body on such issues. This covers a cross section of industry through objectives of promoting integrity, creating shared values, strengthening regulatory mechanisms and raising awareness on foreign bribery laws and their implications on Indian businesses. One initiative of the Council is to prepare a Model Code of Conduct to serve as a guide to companies while dealing with its stakeholders and the Government.

I end here with the hope of having provided some food for thought.

Thank You
Remarks by Shri Ajay Shriram President Designate, Confederation of Indian Industry (CII)

Thank you very much for inviting me to participate in the Golden Jubilee celebrations of the CVC. I am privileged to be addressing this august gathering on the very important and relevant subject of corporate ethics. I would like to take this opportunity to congratulate the CVC on completing 50 glorious years. The CVC has wonderfully maintained the dignity and independence of a constitutional body. My congratulations once again.

I would like to cover the topic of Corporate Ethics under three headings. Firstly, the background and the context in which we are operating. Secondly, I would like to share a few well known examples of how things can gohorribly wrong, when ethics are compromised, and finally, talk about what Indian Industry, and CII in particular, is doing for better corporate ethics.

So first the background:

(i). In recent years, ethics, integrity, and governance have become a central topic of discourse across the world. It has captured the attention of government, corporate leaders, social sector activists and many more.

(ii). The reason for this is not surprising. There has been a lot of publicity about scams, wrong doings, etc. Often the political class, and the business class, is blamed for an unholy nexus, sometimes called crony capitalism. There is a perception that government views business suspiciously, and that businesses follow unethical practices, and are only focused on making money. On the other hand, business views government regulation as stifling. In fact, today society at large has begun to view both government and business with suspicion, and so there is a need to introspect on why this has happened, and how it can be rectified.

(iii). Industry is increasingly conscious of the fact that it needs to gain the confidence of government, civil society and the public at large. It must rise to the occasion in setting high standards of integrity and transparency. This is more so because with the increasing size of corporations, their actions have far reaching implications towards people, and the society in which they operate.

I fully endorse today’s topic of discussion on the need to move “beyond dilemmas” and have clear thinking on this subject. We should minimize the grey areas and define as precisely as possible, activities that are ethical, and activities that are not. It is now imperative that Corporates follow best practices, because both society as well as laws, require that.
With this background, let me now share with you three well known examples of corporate failures which all of you are familiar with. Two of these are from the United States and the third one is from India itself. The purpose is to understand the learnings in each case.

The first example is of Enron. In December 2001, the sudden and unexpected collapse of Enron Corp had shaken confidence in corporate governance and the stock market. The firm was widely regarded as one of the most innovative, fastest growing, and best managed businesses in the United States. However, workers, suppliers, shareholders all lost substantial money. It subsequently appeared that Enron was in a terrible financial shape, as early as 2000, burdened with debt and money-losing businesses, but had manipulated its accounting statements to hide these problems.

It is not unusual for businesses to fail, after making bad investments. Rather than disclose its true condition to public investors, as the law requires, Enron falsified its accounts and transferred its losses through accounting jugglery, to entities that were created and controlled by Enron’s management. When the true facts emerged, over 80% of the profits reported since 2000 vanished, and Enron quickly collapsed.

The central issue raised by the Enron episode is transparency. As firms become more transparent, the ability of corporate insiders to pursue their own interests at the expense of employees and public stockholders diminishes.

The second example is of Lehman Brothers. In an unprecedented move that rocked the financial industry, in September 2008, Lehman Brothers filed for bankruptcy protection. Not only was this the largest bankruptcy case in United States history, but it also came after repeated assurances from the company’s chief executives that its finances were healthy, liquidity levels were high, and leverage was manageable. This shattered consumer confidence, and a number of questionable decisions came to light.

Thanks to creative accounting and clever public relations, Lehman Brothers was able to report a positive view of its net leverage. Several teams concealed information from ratings agencies, investors, and the board of directors. The statutory audit firm failed to raise an alert.

The impact was that credit markets froze, forcing international governments to step in. The US Government had to bring a $700 billion federal rescue aid package in October 2008. That is a staggering Rs 42 lakh Crs.

So what went wrong? Its demise was the cumulative effect of a number of missteps, perpetrated by several individuals. These offenses included false information being provided by the Chief Executive Officer as well as the CFO. The lesson of the Lehman Brothers case is that no matter how dire the circumstances, transparency and accountability are paramount.
The third example is of the Satyam fraud that happened in India itself. It deprived lakhs of investors, shocked the government, industry and regulators and led to questioning of audit and corporate governance norms in India.

It involved promoters and senior management in fabricating books, insider trading, unwarranted acquisitions, laxity on the part of independent directors, and many more. Even bank letterheads were used to bolster the fake accounts. It showed how a great company can be brought down if somebody decides to be unethical. It shook India’s successful IT outsourcing industry. Fortunately the Government moved swiftly and decisively, and salvaged the situation. In fact, the Government’s action was appreciated across corporate India as an example of a supportive role, in a difficult situation. The lessons here were similar to the ones learnt from the Lehman Brothers episode.

Let me now take up the third and last point which is the response of Indian Industry to the challenges thrown up on account of unethical practices. CII has taken the lead to sensitize business on the importance of Corporate Ethics. Let me list some of these for the benefit of the audience.

(i) CII has developed a “Code of Business Ethics” for industry and is encouraging industry to be ethical and compliance driven. We are trying to build a culture of ethics amongst the membership by helping companies develop their own Code of Ethics and to follow honest policies.

(ii) CII has issued a paper, “Corporate Governance Recommendations for Voluntary Adoption”. These have been prepared by a special Task Force based on best Indian and International norms. It has been widely circulated. It has covered the subject of Board of Directors performance very exhaustively.

(iii) We have come out with a publication that gives examples of best practices being followed in the corporate sector in India today. This highlights issues through real instances, so that others can learn and emulate. Some examples have highlighted how use of IT has both improved efficiencies as well as created checks and balances.

(iv) Internal audit is an area that needs to be strengthened and most companies are working towards this goal. The role of the Chairman of the Board Audit committee is critical. CII is encouraging companies to give the independence and the stature that internal audit deserves. This will ensure that surprises do not spring up, especially after the damage is done.

(v) We are engaging with Government on policy and procedural issues with emphasis on the need for clarity in policy and procedural simplification. In addition, inputs have been provided on various anti – corruption bills on behalf of industry.
(vi) We are exposing members to international laws such as the UK Bribery Act 2010 and the UN Convention against Corruption. This has gained importance in light of Indian Companies going global. Workshops and seminars have been organised in different parts of the country. Traditionally the focus was on the bribe receiver, but increasingly the new laws address the supply side problem, where the person offering a bribe is as much guilty as the person receiving it.

(vii) CII has initiated a series of lectures at educational institutions, particularly management schools. CII has developed a curriculum for schools and colleges on ethics, as we believe it is important to inculcate these values early in life. Our children must feel proud to be honest, so that they become ethical citizens.

Before I conclude I would like to raise two questions. The first one is that “does good ethical behaviour result in better financial performance” and the second one is “How much regulation is necessary to prevent large corporate frauds of the kind highlighted earlier”.

Several international studies show a positive and statistically significant association between the World’s most ethical companies and superior financial performance. They are based on appropriate financial measures and a variety of methodological choices. Based on this evidence, it has been concluded that the prestige attached to being the World’s Most Ethical Companies does translate into long-term financial gain, and consequently better shareholder value. This has been seen in periods of market growth, and during market downturns. So clearly, this is a win-win scenario.

On the second point of regulation; yes, we must introduce and enforce strict norms of transparency, integrity and disclosure. We, however, need to be careful that rules do not become an end by itself; they must be a means to an end. Corporates must be allowed to operate in a free and competitive environment, where the rule of law prevails. Discretion by government and the power to “NO”, must be minimized. It should be appreciated that business adds value to society, by creating livelihood, and helps in improving the quality of life. There is probably no 100% fool proof system, and so one black sheep should not tarnish the image of the entire business community.

Finally, I think it is important for corporates, in their own interest, to put in place, and then follow, best practices in corporate governance, not just to follow the law, but because society expects nothing less. It enhances the image and reputation of the company, and of course it helps in improving profitability. So clearly, good ethical practice makes a lot of business sense.

Even though corporate governance mechanisms cannot prevent unethical activity by top management completely, they can at least act as a deterrent, before it is too late. When an apple
is rotten there is no cure, but at least the rotten apple can be removed before the infection spreads, and infects the whole basket.

Ladies and gentlemen, thank you very much for giving me an opportunity to share my thoughts on this important subject of Corporate Ethics.

Thank you.

Remarks by Professor Jayati Ghosh, School of Social Sciences, Jawaharlal Nehru University (JNU)

I am, of course, greatly privileged to be part of the discussion on this important issue. I am a little unnerved perhaps because we are not recognizing how serious this issue is in the broader society and we are talking about this issue today as if it is business-as-usual and we just have to fix a few things that are wrong and we don’t have to worry really too much.

Unfortunately, apart from the trust deficit that was mentioned a little while ago between business and government, there is a massive trust deficit today between society and the government and society and business. This is not something we can talk about casually because it has assumed such epidemic proportions that it does threaten our socio-economic-political fabric. So I think we can not afford to talk about relatively small changes of being good and behaving ethically, teaching people how to have nice morality and so on because I don’t think it is really good enough to resolve the problem. Since it is an urgent problem we need to think a little bit more substantially about the changes that are required.

The Hon’ble Chairman said we should be provocative so I hope you won’t object if I may make few provocative statements about this. I think it is absolutely right that self-regulation is a very important means of regulation but when we do that a critical thing is the incentive infrastructure that is created in our society, polity and particularly in the economy.

I think it is fair to say that currently the incentive structure that we have for business and government does not encourage good corporate ethics. There are neither incentives for obeying the law, the positive incentives, nor there are disincentives for not obeying the law. As we speak, for example, there are major corporate defaulters whose amount of unpaid loans in numbers are growing day by day and there is absolutely no concern about ensuring that these unpaid defaulters loan is paid up and many of them are continuously getting loans from public sector commercial banks without any problem at all.

There are companies that have been found guilty by the Supreme Court of disobeying environmental regulations, etc. They also continue to get clearances from other Ministries and access to public sector loans and so on or so forth. There are changes that have to be
made to the law and so on but currently the very important concern that I would argue is the widespread prevalence of regulatory forbearance. We turn the other way when a lot of things are happening. We turn a blind eye and ignore many things essentially because of a wider perception that enforcing too much of this with too much of a heavy hand will actually prevent economic growth and destroy investors’ confidence, will upset those who will actually generate wealth for our economy by investing and so on.

I believe that this is a huge problem not only because this has created this massive trust deficit in society but because it is counter-productive. I think that the attempt to ensure that there will be more investment by ignoring certain rules, trying to push through environmental abuses, shall we say, and non-compliance with environmental regulations, passing over certain aberrations in income tax and fiscal collections and direct tax collections of various kinds, ignoring bank defaults and so on will all be counterproductive.

I think these are all counter-productive not only because they create a wider system of disincentives for society but because they end up getting challenged in courts and investments get held-up in the process. There are stakeholders who object and who, therefore, create social and political unrest and conditions that business environment is no longer feasible and comfortable and therefore I don’t think it is actually helping any of us to encourage such regulatory forbearance.

Of course, then the next question is why do we have this regulatory forbearance? Why are we so generous in our application of the norm? I don’t think it is fair to say it is all corruption. I don’t think only the people making quick bucks, the bribe giver and bribe takers are following their guts and therefore a whole lot of things are allowed. Yes, there are instances of that but as was mentioned these are all apples in the basket. I think it is really a situation where we have a strategy that is so dependent on large corporate confidence that we are willing to bend over backwards to ensure that confidence remains.

I believe that once we have such dependence on ensuring, shall we say, comfort level of large corporate sectors in different ways, we end up overdoing it. There is a very thin line between what is done in good faith and with the best possible interest and without any corrupt motive and things that are done in a corrupt way. There is a very thin line to be drawn there. It is a very grey area once we think that incentivizing the large corporate sectors in every possible way is the only way to achieve economic growth and development. Then this kind of question inevitably arises.

So I would argue that not just in the interests of society and economy but also in the interest of the large corporates and in the interest of the Government we need to actually stop this regulatory forbearance. We need to stop being so accepting. Now when people talk about the
big corporate defaulters nobody blinks an eye because those numbers have been thrown off and we do not care about them anymore. I don’t think we need to be accepting about that. We have to actually implement the law in letter and spirit.

I think it is in the best interests of corporate India and certainly in the best interest of Indian society. I think it is also in the best interest of the Indian State but I think recognizing this is going to take a bit of mind-set shift because we have got so used to worrying all the time about how people will respond and the kinds of reactions they may have.

I do believe the laws like the Whistle Blower Protection Law are absolutely crucial. We have heard about transparency but it is not enough for the corporates to feel that they should be transparent and become transparent. They must be forced to be transparent, like all of us. None of us wants to be transparent, we have to be forced to be transparent. So I believe we must encourage laws and not just encourage but force transparency in all institutions whether public or private and, therefore, further laws like the Whistle-blower Law are definitely imperative.

In general the implementation of both regulations and other laws must be in letter and spirit in such a way we are not constantly looking over our shoulders to worry about what might be a potential reaction. I do believe that this is possibly something that can be debated. So I will stop here.

Thank you very much.

**Question and Answer Session:**

**Comment by Shri Sunil Kumar Gulati, CVO-DDA:** Basic goal of corporate ethics is creation of wealth. There are 6 kinds of wealth. Indian education system needs to relook on introduction of modules on ethics from engineering colleges and schools and not only in B-schools.

**Qs.** Prof N.K. Jain, Chairman, Institute of Humanism: Is corporate ethics different from morality?

**Ans:** Shri Shriram: Corporate ethics is a culture. It should start from top. Morality is a larger value system.

**Qs.** Ms. Ranjana Kumar, Former Vigilance Commissioner: Concern on effective decision making and delay is because of lack of assertiveness in working of PSUs. Do we need to fall in line with our seniors?

**Ans:** Shri Chidambaram: There is a hierarchy of decision making. There is no decision made at a single point. The final decision may be very different from the initial decision. We need to understand any decision may seem flawed at hindsight. There is need to accept
hierarchy of decision making process. Principle of violation of hierarchy of decision making is not acceptable.

**Ans:** Ashok Chawla: Adding further to the above, if proper records bringing out diverse views are maintained, it should not be an issue.

**Qs.** Shri Vithal, Former CVC: Greed is the root of all malpractices. What is the solution?

**Ans:** Shri Chidambaram: Ethics applicable to individual cannot be applicable to corporate. Corporate must comply with the law. It is an artificial entity and compliance to law makes it ethical. Beyond this, it is extremely subjective for what is ethical to one may not be so for the other.

**Ans:** Jayati Ghosh: Voluntary disclosures for compliance should be mandatory.

**Qs:** From audience: Why is corruption spreading like cancer?

**Ans:** Shri Chidambaram: While replying, he asked whether the question is in relation to Indian context. Citing business report from Europe which stated that 162 billion US dollars were used every year to bribe officials, politicians, Governments to do business in Europe, he said the self flagellation in India that it is the most corrupt nation is not correct. He said instances of corruption are in every country although I do not believe that everyone is corrupt. Scale of economic pie in India is growing and hence the scale of corruption is increasing with greater number willing to be corrupt. We have the problem of corruption.

As long as there is greed people will violate the law. It is a powerful driver of human behaviour.
360 Degree Approach: Role of Media and Civil Society in Combating Corruption

- Positive role of Media (print, electronic and social) in combating corruption
- Corporate ownership of Media and issues of neutrality
- Strengthening & supporting citizen engagement in increasing Integrity and Transparency in Government
- Social Media and Citizen empowerment
- Role of Right to Information in empowering the citizen
PANELISTS

Chair: Justice G.N. Ray  
    Former Chairman, Press Council

Speakers:
   (i) Shri Jawhar Sircar  
       CEO, Prasar Bharti
   (ii) Shri Raj Chengappa  
       Editor-in-Chief, The Tribune
   (iii) Shri Vinod Mehta  
       Editorial Chairman, Outlook

COMPERES

Ms. Smita Menon, NTPC
Ms. Sonal Singh, SAIL

RAPPORTEURS

Ms. Snighdha Goswami, NTPC
Shri Debashish Mukherjee, ONGC
BREAKOUT SESSION - III

360 DEGREE APPROACH – ROLE OF MEDIA AND CIVIL SOCIETY IN COMBATING CORRUPTION

Introductory Remarks by Justice Shri G.N. Ray, Former Chairman, Press Council of India

Friends, I think it is a very coveted privilege to be present today for a lively discussion on a subject which I think is most appropriate and very relevant for discussion. Corruption is eating the fabric of the society. At every level corruption is there and until and unless we can come out of it perhaps it will be disastrous for the country. Therefore the discussion of the subject today, the role of media and also civil society and their interaction in combating corruption is the most appropriate subject to be discussed.

I am not from a media house but fortunately I had the privilege of remaining the Chairman of the Press Council of India for about 7 years. I had some close understanding about the function of media and also civil society. Therefore, perhaps the organizers thought it fit to invite me here to chair this session and as I said I am quite thankful for it.

So far as India is concerned, if you remember our philosophy was good of the international fraternity all the time. India never thought of becoming rich itself. The concept was that universal gain should be there. You live simply but think of others. Conceptually, if Indian philosophy is accepted, corruption is ruled out at the root. Unfortunately, in the real world it does not happen. Therefore, there is a need for this discussion. Various topics have been included in the programme. One is positive role of media, print and electronic and social in combating corruption. The second topic will be corrupt ownership of media and issues of neutrality. Third is strengthening and support of citizens’ engagement in increasing integrity and transparency in government. Fourth is social media and citizen empowerment and the fifth is role of right to information in empowering of the citizens.

Now, the first one is positive role of media – print, electronic and social in combating corruption. The media is the representative voice of the people. You will understand that in the Indian Constitution freedom of speech and expression has not been given in so many words to the media but this question came up as early as 1950 when the Constitution was created and the Supreme Court started functioning. A matter appeared before the Supreme Court and there was no hesitation on the part of Shri Patanjali Shastri who was chairing the bench. He became the second Chief Justice of India to declare that media has freedom of speech and expression like ordinary citizens. It is by this declaration by the Supreme Court that media got it. Why? Let
us ask that question because media is a representative voice of the citizen of India and all the citizens are represented. It is called the watchdog of the nation. It is the mirror of the society and media being the Fourth Estate has a responsibility to look at where the deficiencies are in the functioning of the Government and civil society. What should be done, what should not be done. Unfortunately, today the way the media is functioning, it is not attaining that level and that is why the question has come up as to what should be the role of media really. The corporatization of India has become a reality. Media must expand because in good old days if you remember the media of that time, the printing machine was not that much efficient. By this machine hardly 2000 copies used to be printed though it had a tremendous impact on society. The village headman in the light of a lantern used to read and speak to the people. The media was engaged in social reforms and doing excellent work.

The first newspaper which was published from Kolkata is known as the “Calcutta Gazette”. True to the speech of a journalist it raised its voice against the misdeeds of East India Company. The result was disastrous. Ultimately, the publisher suffered jail terms and penalty as the news was the truth. That is the real spirit of the journalist. But today unfortunately that is not happening. Corporatization has led to demands for increasing profit. Profit must be there but one must try to understand that there is a limitation once you have taken the responsibility to guide the nation. At one point you must stop. There must be a Lakshman Rekha which you cannot cross. The corporatization problem is required to be tackled and at the same time there is another difficulty - cross media ownership. Today big newspapers, big houses, TV channels and also the print media are covered by it and there is a danger inherent in it.

The Second Press Commission of India spoke against the view that this will bring monopoly. It pointed out that there was legislation in America and in Australia while in India we were not even thinking about it. These are matters that require to be considered very severely. Both civil society and the news media including print media may sit together and try to find out what should be done about this. Until the media plays this role with absolute neutrality there is a difficulty.

The most difficult situation which I have noticed is the “paid news syndrome”. The “paid news syndrome” came to light in India when it came out that many big media houses were taking money for the purpose of publication of news in favour of one political party or in the favour of one candidate. Another difficulty is that even in the economic world many of the media houses are taking the side of the media corporate houses for money. That is the most difficult situation.

If by Talk Shows or by your article or any other thing you control the financial market and create a hype, there is a severe danger in it. I can cite an example when shares were floated by
Reliance. There was so much hype built up through Talk Shows and through the print media and electronic media that ultimately the share was oversubscribed by 3 to 4 times and every share was sold for about Rs. 430 or 440. Today it is less than Rs. 100. Thousands of crores have gone down the drain. This is really a difficult situation. In America and Europe also the same problem is being faced. Therefore, time has come for a serious discussion amongst us on how to control and regulate the functioning of the media in the best possible manner so that the media really becomes the Fourth Estate of the country. That topic would be very important for discussion I am sure. The panelists today will throw light on it.

The second subject is corporate ownership of the media. Corporate ownership of the media is bound to flourish because in earlier days when I was saying 2000-3000 copies were issued is not possible today. Today, media houses are printing newspapers from 18 countries all at the same time. The total circulation is in figures that range from 20 lakh, 25 lakh or 30 lakhs. Therefore, corporatization of the media is bound to happen. However there is a limit which should not be crossed and that requires a serious discussion.

The third issue is of strengthening and supporting citizen engagement in increasing integrity and transparency in the Government. This is not really related to the media’s functioning but is a common subject. Shri Sircar has wide experience in functioning of the bureaucracy system and in Government functioning and I am sure he will throw a little light on this.

There are issues of social media and citizen empowerment. Citizen empowerment is essential because the country is governed by the citizens ultimately and, therefore, until the empowerment of the citizen is there it will be very difficult to achieve all round success.

There is also the role of Right to Information in empowering the citizen. The interrelation of the media and citizen is outside the scope of today’s discussion but it is quite important because Right to Information is certainly among the very important legislations ever done by the country and we are thankful for that. But Right to Information also has its limitations. Sometimes you may have noticed some abuses. Sometimes the Right to Information is not being heeded. Shri Sircar, I think, is also quite competent to speak on this and I request him to throw a little light on it. I will request Shri Chengappa to speak on the subject of corporate ownership of media and issues of neutrality. I think he is the most competent person to speak about it.

With this introduction I think let us start the discussion itself.
Remarks by Shri Jawahar Sircar - CEO, Prasar Bharti

There are 2 dates that come to my mind when I think of the subject. The first is July 1975 when I joined the “Soviet Socialist Republic of India”. Everything was “under control”. I managed to survive the initial years and land up in the Ministry of Commerce where I was told with utter confidence that we would be regulating how many peacock tail feathers would be leaving the shores of India. That was the degree of control for those who have not faced that sort of a regime. You could see huge lines at the enquiry counters with suit lengths and everything. In fact, you found it very difficult to enter the Ministry because there were so many people vying to meet ‘Babudom’. This ‘final corridor of Udyog Bhawan’, as we called it, was then full of red lights outside the chambers.

Then came June 1991. I remember some of my Joint Secretaries had a difficult time deciding which baniya to go and have lunch with. Sir, pardon me, but what I am talking is a fact everybody knows. There were some of us who considered the control system and the benefits that accrued therefrom to be very antithetical to the Brahmanical values under which we had been brought up. In June 1991, came what we call the ‘Volcano of Liberalisation’, the breaking down of the ‘Berlin Wall’. I happened to be there at that point of time and I remember we had to liberalise, “open up”, one hand per day. We had very amusing stories of calling Chawla, Chopra and Chaddha and telling them not to ask for a 33 page form and bring it down to one page and Chawla would bring it back with 1 page and 33 Annexures. Old habits die hard and we went through that phase. There was a sudden release of energies and there was a lot of consternation among my seniors. In fact, one of them called and told me that my enthusiasm with Shri Chidambram was rather worrisome as it was destroying “systems”.

I remember, however, in retrospect, that a lot of energies were released. This would lead to what we call carriage of suitcase carrying money until, finally, the sick old telecom system would stand out as an example. Every person in this room has been pulled up by the 199 lady, the ‘Enquiry’ lady, in the good old days. If you remember the telephones and when you made a call on 180 for a trunk call, the entire mohalla would be listening. That was replaced by a huge amount of activity in the telecom sector so that we have now 900 million plus mobile sets against something like 40 million land lines. Why I am referring to that date is because someone had told me this sort of a “closed door socialist corruption” or permit control raj would lend itself to what he called “crony capitalism”. His words ring prophetic in my ears.

We come to the third date that comes to my mind i.e. September 2010. I had to attend what is called the Cabinet Committee on Commonwealth Games and there I found a no holds barred situation. Suddenly the same India that had patience with Telgi, that money launderer from Pune, just burst out and all the media went viral with the picture of one commode.
One commode was shown 20,000 times in all the media as if the national patience had burst out. We managed to carry out the Games and immediately after the Games the back-lash began. I had observed it closely as a participant, in fact, one of the few not indicted by the Commonwealth Games so far. We found that from the month of September – October the media had decided their target. The press had decided who the targets were. If you remember, the rains came and there was no way the work could be completed. It pushed on and on until first his cronies and then everybody else including him was sent to jail. That was January 2011.

I mention these three dates as three high water marks in my life. Let’s take a look at what role the media played and its “crusading” role in corruption and whether there has been any other scenario.

I would submit that the first decade or even 14-15 years of free India belonged to Parliament. Not the same Parliament that we see today, but a Parliament where an allegation made by a Party member of the ruling party could force the Prime Minister to drop his Finance Minister. I can go on to names. We had the Mundhra Scandal, Sahu Jain case etc. Everything was rocking Parliament. We had Parliamentarians like Feroze Gandhi (who was also a son-in-law) and we had Piloo Mody and others who were rocking Parliament. In the first 15 years of independence, the Press had a secondary role and except bringing out the proceedings of Parliament it wasn’t as what you see today. This was just to bring you a historical perspective. Then, in 1975 the chord between government and the press would break, never to be repaired ever again by any government. And then began the tumbling out of a lot of scandals. I can mention several: Antulay Trust ‘81, Bofors ‘87, Harshad Mehta ‘92, Telecom ‘96, Fodder Scam ‘96, Hawala diaries, Ketan Parikh etc.

What am I getting at? The first part was the bonhomie between Parliament and the Media. If we look at corruption then we find a scenario where people, including the Finance Minister, would have to resign because Feroze Gandhi, the son-in-law, had indicted them and the Prime Minister was gracious enough at that point. What happened thereafter is another story. If we fast forward, we see that the first time air waves were actually handed over back to the nation is after a judgement in a sports case in 1995 in Jagmohan Dalmia Vs. the Ministry of I&B, Government of India. Until then we had a tame media (where the electronic media is concerned) because today when you talk of the media it is first and foremost the electronic media that grabs your eye balls. I would concentrate on that part. In any case, except a brief rise that the print press has had in India, the international trends are on the decline.

Once the airwaves were opened up, thanks to the Supreme Court’s judgment, all the units within the body of Doordarshan came out free. Aaj Tak, NDTV and others became free and so did the satellite linkage. For the next 4-5 years it was business as usual and then began what
we call the “Clash of Bites”. This “bite cost” is something we need to get into very deeply. I had, in fact, even suggested a “Bite Exchange”. In a Bite Exchange it doesn’t matter whether a bite is true or right or wrong. Because you have picked up ‘bite’ on a theme or story, you go on repeating it until kingdom come because it is very expensive to send teams over again. I had also suggested a “Footage Exchange” whereby this sort of tendency of overplaying on a particular thing would come down.

Where India is concerned, there are a few more facts that I would like to talk about. The general feeling about corruption, and there is no measurement of corruption, is that it has increased substantially. What was Rs.64 crores and once a major issue that rocked governments is now taken as a pittance. The numbers and volumes and transactions have increased and there is no doubt about it. Where I stand I feel that a lot of our colleagues are not really that corrupt but what corrodes the nation’s heart is “user-friendliness”. It is “user-friendliness”, of making things easier for the ‘system’ that is actually worrisome. But where does the Press come in? I have already told you through a series of examples of where the press got into the act and could bring in, let us say, scams to light. But until January 2011, when the first major head rolled, no major head had rolled. It was like this Srinivasan and BCCI matter and stinks like that where there was a lot of heat and light which soon died down and it went back to ‘business as usual’. Of course, in this case Justice Mudgal has come up with something. We hope something will happen. The point is that the knowledge of our system is so freely available to us that if I take my tribe or my cadre I know exactly who is corrupt. All of us know it. The same happens about political nexuses. We all know who are “user-friendly”, we all know who are doing it, and the question is how do you nail evidence?

My first submission to the Hon’ble CVC is that can we go into more flexible procedures or do we stick on through the rigidity of the CCA and other evidence? Can we take a hard look? Because if we remain too obdurate, too un-changing, the system will get worse.

What is happening? Lynching happens only when people lose faith in their systems. Similarly the public lynching that is taking place in the media, part of which is attributed to what I said is due to the expensiveness of repetition, bites for which it repeated, the mad scramble for a story, but it is also partially responsible or we are partially responsible because we do not give in until the man is proved guilty. There is a complete breach between governance (I am not using the word “government”) and the media. Anybody who tells you something different is not telling you the truth. I see it everywhere because I am surrounded by the media. The same persons who were more, let us say, “accommodative” on the chair are now today friends and rivals. I can see it in their eyes, I can see it in the innuendoes, that the breach between governance and the media is almost complete. It is a question of finding details.
But let me come back to another phenomenon that has come up. The collusion between a large segment of the media and the three establishments has reached astounding proportions. If you go into the list of Members of Parliament, you will see that it is a matter of pride to be elected by a party to the Rajya Sabha or other seats and you can go into how many people in the establishment actually have a hand there. This would lead to the collapse of faith in the Fourth Pillar that was to take on the ills of the first three pillars (Legislative, Executive and Judiciary). Those that did take it on are now also today a largely colluding force. I can give examples but that will take too much time. It is not the fact of becoming an MP that corrodes or corrupts you. The fact is that public perception is that the 3 pillars and the Fourth Estate are now together. A few historic things have happened in India (e.g. the RTI came in and so did a lot of civil liberties).

So, was this just a question of, let us say, timing? What did we get? We got another date worth remembering: December 2012, the assault upon Raisina Hill. By that time I had taken over this chair and my boys looked upon, aghast, and said Raisina Hill has never been taken over, even during the freedom movement. “Sir, what do we do?” I said, “Send your cameras”. This could only happen not because a woman was brutally raped (rapes are going on even today) but because the boiling point, the tipping point had been reached. The tipping point will continue to be reached because the public perception of the three institutions and the Fourth Estate being in cahoots is now firmly entrenched.

Let me give you a few examples of what Justice Ray had said. We have no regulatory environment. He was Chairman of the Press Council and we now have another very active Chairman of the Press Council. The Press Council is a voluntary body, it is almost like a Church get together. It can’t bite. Libel takes too long. I feel that neither the Press Council nor libel would work.

There is no regulatory mechanism over the print media or the electronic media which is more dangerous. Let me give you an example of how we achieved complete unanimity, you can call it ‘cooperation’ or ‘collusion’. Lord Justice Leveson’s report that was brought in Great Britain happened because a red haired lady had become too close to the Prime Minister in England and, therefore, the Murdoch Group came under scrutiny. The net result was a report that is so thick that only the Executive Summary is on the web. Not one newspaper, not one media house spoke about even the existence of the report. We had to bring it to public debate because as the public broadcaster we thought it worthwhile but it was seen as another sarkari trick to ensnare the press. We leave it open, but let the discourse continue.

TV ratings on which the entire industry exists is something deplorable. As against 750 to 760 million people in India we have 7500 meters to measure TRPs. God only knows where they are placed. TRP translates into cash, and that translates in cycles in the whole industry.
Third, media - political nexus is a development characterized by “paid news”. We are unable to distinguish between what is paid news and what is “news”. There are newspapers that make it almost an unwritten policy that you be nice to me in terms of cash and we will look after you.

Having indicted myself and my own service of corruption and everything, let me also look at the watchdog and see what is happening. If the watchdog insists on golden teeth, those teeth will hardly bite. As we talk today, there is a head of huge news channel who is under charges for a blackmail of Rs. 100 crores. The amount is not far above what we heard in the 1980s. I hope it is not correct but if so, it is an indication of the times. Voluntary bodies like NBSA and others have their limitations because at the end of the day it is the Oxbridge club or a network that matters. We now have over 950 million mobile sets, of which 800 million are activated. We have a very active social media that gets people together. In fact, when people ask me why is it that we could not surmise as to what was happening on Raisina Hill, the answer was very simple: there was no surveillance on the social media. No democracy should have it. So what happened was that the public was completely connected through the social media. That is a fact.

I forgot to mention the takeover of media. One big house got into debt of about Rs. 1800 crores, so a big house from Bombay bailed it out through a very complicated cross holding pattern which even if I tried to understand, I could not with 18 years in commerce! The small point is that it is a front. One major house is just a front for a big corporate. It is a complete monopoly that is happening. Let me explain. The print and vendor (distribution) are only two verticals. Where the electronic media is concerned, content is one vertical and transmission through the DTH or the satellite is another monopoly. The distribution of content comes through what we call the MSOs and LCOs. One house controls content in almost every state. Content distribution has its own satellite control. Business Houses have newspapers. You can see a pattern emerging. Are we now going to get that colossal state that we got rid of in the 90’s to be replaced by a colossal, irresponsible plutocracy? A plutocracy that has several kleptocratic tendencies? So, are we going to replace ourselves with one against the other? Against this trend, forces have emerged and I do not either demonize or valorise them, I am just describing them. They have come out in the Fifth Form of Frustration.

The world now is moving in a digital age, and though much of it is hype, let me assure you the choice at which we stand today on corruption is a flexibility within our own system. To catch the ones that we know to be corrupt is another thing. The choice is now between a social media that has no normative rules of conduct, that could pack off thousands of boys from the North-east on the basis of a rumour from Bangalore like tinned-sardines and a social media that is very much alive but has no rules of engagement. Or do we bring in a Regulatory Body or a multiplicity of Regulatory Bodies that take care of the concerns of the people on
all the issues including transparency and probity. Its either/or now. Either towards responsible
governance through a series of transparent regulators or it will be the possible anarchy of the
ungoverned space of citizens.

Thank you.

Remarks by Shri Raj Chengappa, Editor, The Tribune

Firstly, I think it is appropriate to compliment the CVC for organizing this Seminar. They seem to have hit on a topic that is on the top of the minds of everyone. It is unfortunate that Dr. Sircar had to leave at this time. He spoke with such candour and entertainment that I wished that his channel would do the same. I don’t think the Doordarshan channels have in living memory done any major expose having been largely the voice of the government and not of the people. That is something that my newspaper has its logo – “the voice of the people”.

Justice Ray asked me to speak of the corporatization of the media. I am happy to say that The Tribune is probably the last newspaper that is run by a Public Trust. It has five Trustees who do not take any money. It is a non-profit Trust for 133 years, started by Sardar Singh Majithia. I am happy to say that despite all the gloom that Shri Sircar had pointed out, the media is not a big bad boy as yet. Though there are cases and aberrations that we all need to take note of, I would not take such a dim view of what he has said. I am saying this with a great sense of responsibility. Yes, we have done a lot of wrong and so has much of the bureaucracy, the judiciary, the executive, the political leaders and everybody else. But to shoot the messenger at this point, I don’t think, is the sort of theme that we should follow. There has to be a lot of regulation I agree. Whether it should be self-regulation, and I support self-regulation, we can discuss subsequently.

I think what we are seeing is a wave of a different kind and all of us have experienced that. I happened to interview Shri Kejriwal last week, for about an hour just to understand what he is all about. He has been a phenomenon, as we all know. He has adopted shock and awe tactics that makes headlines news every day. His rivals call him an “item girl”. He has, of course, surprised everyone by his tactics and it is interesting to find out what were the lessons he learnt in this last month and half in power. It is a very brief time, of course. Many of you have been in power for years or have handled power. He said in his mind there were two learnings: one, he realized that the government had a lot of money and this money was used for projects that are not of great use and he felt that it wasn’t rocket science to re-align it. The second was he felt that there was a huge amount of vested interest that had grown, whether political, the bureaucracy, business, and he included the media, that was preventing all this from happening.
and was planning for the downfall of the Aam Aadmi Party because they were uncomfortable with what was going on.

In many senses the Aam Aadmi Party, Shri Kejriwal, Shri Anna Hazare have become the lightning rod of all our anger, in some senses “public anger”, towards corruption. They have channelized that into something that has been dramatic and has shown results in the recent elections in Delhi. They have also become the symbols of the crusading spirit that is there.

Let us not forget that before that, if you take a sweep of history, you would find that the media was a prime catalyst in a lot of this action against corruption. I think Vinod Mehta’s magazine, if I recall in 1997, did it if you go back into the 1980s. Of course you have the Bofors, you have Arun Shourie, if you see the 90s you had a whole lot of things and particularly I remember since Vinod is here as a senior colleague the cricket betting scandal which they exposed. That was very quickly followed in early 2000 by a whole range of politicians getting caught, including Bangaru Laxman and the tactics adopted, the cash for question scheme where lot of MPs had to resign and more recently, the 2G scam followed by the Commonwealth Games and the allocation of coal resources. In all these, the media had a role to play. In some of them they were the initiators, in others they were the catalyst and in the third they performed the force multiplier role. They highlighted these things considerably and were able to garner public support to it. Therefore, you saw a movement of an unprecedented kind which is why I am optimistic. This has resulted in a most historic Act finally coming into play on the 1st of January 2014 which we should not in any way denounce, the Lokpal Bill.

If you see what has happened in the last couple of years as a result of all these actions, and that is why I am saying there is a positive spin to all this, we can look at everything negatively and say everything is going down the tube and things are going wrong. Of course they are, I am not saying no, but there is this whole architecture that is coming up and I think one of the political leaders recently talked about it and there is a need to pass the other parts of this architecture, the six Bills still pending before Parliament (may be there 8 or 9 if you actually look at the numbers). Each of them, whether it is the Whistle Blower’s Act, whether its judicial accountability, whether it is procurement or money laundering each of these Bills provides a platform through which the public and the media can address all this concerns with regard to corruption.

What is the role that we have to play? I am slightly deviating I think. You all have to understand where we have come from, since there is this cry for self-regulation, I mean a cry for regulation of media not self-regulation and things must be put to order, as they say. Firstly, when you look at the RTI enabling legislation, the media used to do a lot of this digging up before the RTI came up and had contacts and sources and was able to expose some of this. But that
was limited; it was really difficult to do that. I think in some senses the coming of the RTI empowers the citizen as well as the media to go ahead and find out uncomfortable facts the government wanted to hide for long but is now able to now uncover.

I was speaking to some of the people that have done a lot of the exposes and I like to quote Anirudh Behl of Cobra Post who has done some of the most outstanding investigative works that happened. He says if you look at what happens to us, the amount of litigation that he faces as a result of his exposes including where his money is coming from, the amount of hours he has to spend in a court defending what he had to write and proving that the person he had exposed, whatever he wrote was correct, whatever he put on video was correct, that itself is a major constraint.

It is not that editors, all of us including Vinod, are not responsible. Our first responsibility lies with the reader or the viewer. If the ‘Tribune’ has endured for 133 years, it is because there is a trust between the reader and those who bring out the paper. That trust is broken like a human relationship if you provide untruths. For instance, if you find a friend who you rely on for information gives you an untruth you would never go back to that person for information after that. You would say he is completely unreliable. I would not trust him after that.

Day in and day out we are put to that test with the reader. He trusts us intrinsically to bring news and let me tell you the collection of that news is an amazing job. For a price of Rs. 2 or 3 we bring the world to your door step every morning. We select tremendous amount of news that comes in an information chaos every day and the 10 most important things that you have to look for on the front page are identified and then we take you across the inside pages depending on the States that you stay in, the areas of your interest. We present news in a cohesive fashion and put it together. Every day we might be handling over a thousand stories that are there and we are liable in case anything goes wrong. If that trust is broken the first person that is going to stop reading us is the reader or the first person that is going to switch off is the viewer. So an Editor has a tremendous responsibility to ensure that trust is not broken.

He is also accountable in a different way. If, for instance, and I don’t agree with Shri Sircar, there is some incorrect fact or if you have exposed someone, he can sue us. These days the moment someone sues us becomes news as well. That is propounded so immediately it is all over the place and he can keep pushing you into courts for about 10 years where you have to go as an editor. I might face 500 cases which means my personal presence is required in many of these cases just to get bail. It is both a criminal and civil offence. I have to pay money if I am found wrong and I can go to jail as well. You already have a large amount of control in terms of both the reader cutting you off and if he cuts you off and your circulation goes
down, that is the death of the newspaper. No one would advertise and you would not be able to sustain. At the same time you can go to jail for all these things. So, it takes a lot to be an editor.

One of the points that Kejriwal was making was that while we are debating on various issues about the house that he lives in, we were allowing the Prevention of Corruption Bill to pass in Parliament without much scrutiny. Now, that is a point that I think, while it sounds good for him to say that, but I think all of us need to ponder upon. How many of us, even including the Press have debated this whole range of Bills, the kind of depth that the non governmental organizations have gone to and brought forth. While the Press, I believe, was the catalyst, the change maker towards corruption, I think in many senses the NGOs and everybody else has taken that role and the Press continues to be a force multiplier in broadcasting and telecasting or writing about these things, but the fact is that this is a complex business. It is part of our jobs as media to simplify them. I used to have a saying that said “Genius is the ability to make the complex into the simple”. Today we live in a tremendously complex world. We cannot understand a lot of these things. Part of our job is to break it down and make it very easy for people to understand and then become interjection points. So if you have this complex legislation it is not going to make a difference, unless you are able to empower the citizen to act on this legislation.

The Whistle Blower is there, even within the government, so he is protected. What happens to the Press? They were the biggest Whistle Blowers at one point or continue to be. What is the level of protection that the Press have when it begins to blow the whistle on Government Actions and everything else? If you think big business is bad, Government can be terrible. They can unleash a slew of things against your press or against your organization as a way of getting back against you. We have had issues of our own in the ‘Tribune’ when we exposed the nexus in the transport policy that the Punjab Government had under Prakash Singh Badal. We did a whole series, called “Badals Buses and Public Losses” where we showed that the Badals had a private, transport company that controlled 60% of the luxury buses that ran in the state and controlled a huge amount of routes in the other sectors. Now, this was a Government that also ran Transport Policy and tweaked, over a period of time, the policy in every regime that they came in, to ensure that there would be greater privatization in terms of the routes. So what was once 40% privatization moved to 60%. They tweaked the rules so much that they became the greatest beneficiaries of that. I have no issues about privatization of public transport I think the government should anyway get out of a lot of these things. But it is this corruption in terms of how is it that their buses then got all the preference and how they did that. Did they have an independent Commission that looked at the way they are tweaking the Transport Policy? The end result of that was that the Government cut off all
advertisement to the ‘Tribune’ for nine months. We persisted with our approach and they have finally now come back to us. In recognition of that we won the International Press Institute (India Chapter) award last year for that particular series.

It is not that we are not confronted with a lot of these problems that are there. We have our limitations which you all must understand and we do it under great pressure. It is not that the press is waiting to cash in at all times. Yes, there are issues. I said I am not trying to play that down. But if you look at what we are trying to do, where are these interjection points that come in? One is with the Right to Services coming, the Press has a greater role to play in terms of making the Act viable which means that it’s watchdog role comes in again. Are these services that have been advertised really working on the ground? Is there still money being paid to deliver these services or what? That is something we have to make sure because this is the building block in the fight against corruption. If, for instance, services are delivered on time without having to pay for them and you begin to depersonalize the whole process, then a major aspect as to what is corruption to a common man who is going to pay electricity bills and waiting in the queue that is now considerably reduced, if you see telephone bills in the past you landed up in queues and you had to wait. Anything that becomes scarce and difficult came to be a source of revenue for the Government, an illegal source of revenue.

Once you begin to clean up that act then you are looking at the “big” corruption. Again the Press has a role to play. On one side the Press has a very positive role to play in terms of taking a lot of this legislation and converting it into action and making sure that action happens. On the other side, of course, there is the big corruption that you see. If you look across it is really real estate, the allocation of resources, development projects, huge amounts of money are going. Again, the press has a role in questioning each of these findings. That role has now partially been taken over, thankfully, in some senses, by the CAG which is doing audits. You might argue against it. Government might say that they have exceeded their brief. But the fact is they have exposed a lot of stuff which we have been able to then act on and make public. You need that kind of action against corruption as well and there the media can play a major role.

The third aspect which I think is important for a major organization like the Central Vigilance Commission or any of the organizations that is dealing with corruption is to make itself available to the public and brief them regularly as to what are the ways they can go about themselves exposing corruption. For instance, with no criticism to the organizers, I would love to see what the CVC has done in 50 years? How many cases has it brought to book? What has happened to all these people who have been booked? Where have they gone? That I think would also frighten a lot of people. I think that is the greatest pressure that all of us face and, therefore, is the responsibility of the press. We all know our reputation is the most important
thing. More than anything else if tomorrow something appears in the paper that so and so is corrupt or has taken money and done this, you destroy that person’s reputation and their lives as a result and that is an enormous responsibility on the press.

I agree we have faulted many times on that and my advice to my colleagues is to remember what we hear on cricket, when you watch Sunil Gavaskar give commentary. He says “never forget the basics”. Most of our batsmen forget to ground their bat when they run and he keeps reminding us that “they are test players, they should do that”. Part of those basics is like your airline rules when you tighten your seat belt, push your chair forward, those set of rules must operate for all journalists when they work on stories. If there is an accusation we must have a rejoinder from the person who is being accused. We must be able to find out what is their point of view and present it. I found in most cases if you do present their point of view the anger against that particular report that you have done diminishes. I am not saying dilute it, but give them a chance to give their point of view in the matter. So that is something that I think all of us need to do.

I was once travelling with a senior police officer from Punjab and he was telling me the issues that he has. He said that it has got so constrictive with all these cases mounting against them that today there are no queries if you don’t work, but if you work there are a lot of enquiries. That has resulted in an unfortunate paralysis in government where no one wants to take a decision. I think its pretty clear in terms of the defence sector where we had no major deals in the last 20 years after Bofors because of the fear of all these things. There have been some deals but again that is under question these days. I don’t think that is the role of media, to sort of paralyze the process. That is something that the government has to come together to find out how best you can manoeuvre through this to keep an open, accountable, transparent system. It is not the media to blame. The media only highlights those problems. I think government officers today are pretty worried about proceedings with decisions on this.

Finally, coming back to the question of what is happening. If you see, there is huge churn in the media. All of us are facing that problem. The “new media” has disrupted earlier notions of the way we ran our business and conducted ourselves in probably the last 100 or 200 years. May be television was as disruptive when it came. May be audio was but this convergence of media, the digital format where audio, TV, print everything are all moving into one and is so easily accessible to the public, that has created its own turmoil within the organization which you all must know. Most major media houses, newspapers in America are collapsing under the weight of this. They have either closed or coalesced with other newspapers because the revenue model that was so successful when you had a good circulation, you would get revenue and that would then sustain you and your independence to run an organization is now broken. Today no one wants to pay for news on the net. Everyone wants it free. It is all ‘free access’.
But you must not forget that there is what we call the “legacy media” that is still there, churning out a lot of papers, that spends a lot of money collecting the news, putting it out as well as printing the paper and everything else. That the new media is not able to sustain in terms of revenue. So we had a mismatch. Major organizations in the US, for instance, the Washington Post, Amazon all these will also come to India very soon. It is not that we are having a great time about these things. We are all trying to readjust our sights to see how we can combat this, be part of this great movement as well as to ensure that we are able to get our revenues and keep our independence that has resulted in a complete kind of free for all in terms of the way information is being floated today.

The social media can become a vital force where unaccounted or sort of unverified information gets on and everybody thinks it true. I think in some senses the pendulum has swung the other way so everyone believes whatever is written but it is going to come right back into the centre because you and I don’t have time. The reason why we have survived 133 years is because the job we do is to ensure that we collect information which is our primary job. We should ensure that it is accurate. In most cases, we talk to the officials concerned and put it out. Anyone who reads it feels this is “responsible information” and therefore will continue to trust us when we put it out. We all don’t have time, at best you have half an hour, to read it. You come to a credible source so while the pendulum has swung to the extreme, it will come right back to what is good old journalism and what Gavaskar always says “keep the fundamentals right”, ensure that you are doing your job well and everything else will turn. In the cause of corruption as well that is precisely the advice one can give.

Thank you very much and I am open to questions.

Remarks by Shri Vinod Mehta, Editor-in-Chief, Outlook

I am here before you as a member of the Fourth Estate but I am not an uncritical member of the Fourth Estate. So, I will tackle this subject from both perspectives. But, first let me just state the obvious—that corruption is a hot button issue. I mean that it is self-evident, if you just read the papers, you see the environment, you see the success of Aam Aadmi Party. I think whatever they have been able to do, their success is a reflection of the deep revulsion that the people of this country have for the traditional parties. Somebody asked me which party I supported and I said “the party Rahul Gandhi supports”. Rahul Gandhi supports the Aam Aadmi Party!

But why it is a hot bottom issue, I think, is that there is absolutely no unanimity about how it should be tackled. We have no agreement, we only agree that it needs to be tackled but how it should be tackled, we don’t know. I found in your conference an extraordinary spectacle
where the President of India and the Prime Minister of India disagreed on how corruption is to be tackled. So it gives you an idea of the deep divisions.

Corruption is seen now as subjective thing. One party sees it in his perspective, somebody else sees it is in his perspective. So I thought it was very interesting that you had Shri Pranab Mukherjee and Dr. Manmohan Singh take almost divergently opposite views on this subject. If you read the morning newspaper today you got another example of this Ambani matter. There are four eminent people on one side and you probably know some of them Shri Sharma, Tahiliani, TSR Subramaniam and one other gentleman and there is Shri Moily and his people and Kejriwal and they say that you just don’t understand what corruption means. So you have a situation where one person says I understand corruption and the other person who says I don’t understand corruption.

I will just tell you a story. I hope there is no body from the Ambani family here! An Arab was travelling on the aeroplane and he saw a very pretty air-hostess so he went up to the captain and he said ‘I want to buy this air-hostess’. The captain said ‘You can’t buy the air-hostess, she belongs to the plane’. The Arab said ‘I want to buy the plane’. The pilot said ‘You can’t buy the plane, it belongs to Air India’. The Arab said ‘Then I want to buy Air India’. The pilot replied ‘You can’t buy Air India because Air India belongs to the Government of India’. Then the Arab says ‘Ok, I want to buy the Government of India’ and the captain said ‘Sorry, it’s already sold to the Ambanis’!

What is the role of the media in cleansing corruption? Some people think we are a negative force and particularly politicians who think we are a negative force in this fight because we highlight corruption stories because it helps to sell newspapers, it increases TRPs etc., etc. Some others go to the extent of saying that we are perverse, that we enjoy spreading gloom and doom and negativity. As an Editor I am constantly being asked ‘Why don’t you print good news?’ I just tell them I find it very difficult to find good news these days, and if you can help me find it, I will print the “good” news.

The honest answer about the media’s role in exposing corruption is that they are both a force for good and they do it also for self-serving reasons. For me to deny that the TV channels and newspapers don’t profit by printing corruption stories would be wrong. But I think for you to assume that the media has no national interest, that it is full of people who are only concerned with their own newspapers and channels, would be very unfair. The answer is both.

Since the Common Wealth Games scam the media has helped to highlight a lot of corruption. Some people said that, including Shri Sircar who had to go somewhere I don’t know where. Surely, it can’t be a Doordarshan studio, nothing happens there! But he also said that we keep pounding in, repeating the same image. I think he was talking more of the electronic media,
that one image is constantly stressed, constantly emphasized and the newspapers also will mention the story and repeat it. Why do we do this? Well, I think we do it at our own risk because if we keep doing it people who missed reading newspapers might use the remote and change the channel but we also do it because it is the media's constant hammering of a story, repeating the story, reminding the powers that be and reminding government that ‘this is hanging in the fire’ and you said that you would tackle this problem but nothing has been done. So you keep reminding the government about their amnesia and I think our record of constantly reminding is a record of success. If you look at the record since the Common Wealth Games, the number of scams is a laundry list but I think the role that the media has played in reminding the government that they have not fulfilled this or they have not done that or what about this particular thing, is commendable. So I think it is a positive role that we play here and I think the role of media as far as corruption is concerned, to the extent of reminding the public and the government that this needs to be done, has been a positive role.

I don't mind confessing that a negative story or a corruption story or a breaking news story of corruption does help to sell newspapers and helps to increase TRPs. This ‘breaking news’ has become so absurd that one channel had a scroll running saying the “next breaking news will be at 8.30”. The problem with the media is that this power that we have is going to our head. It is intoxicating us and we constantly justify that power, by saying that all the other Estates of the nation don’t work, therefore, we have to take an activist role. I mean, the judiciary works but all the other Estates don’t work. In fact, the judiciary and the media are supposed to be the two Estates that work hand in hand while the others are sleeping. This becomes the excuse for the media to play judge, jury and executioner. This is a very dangerous role that we play. It cannot be justified in any way. It cannot be justified by weaknesses and lacuna in the system. It cannot be justified by saying that a particular matter has been hanging for 10 years, and nothing has happened, so we move on from there. I became an editor in 1974 and I saw my role as that of putting information in the public domain, again and again. And then we allow other institutions of our democracy to take over. This Arun Shourie kind of idea that we are guerrillas or we are activists, that we must take this right to the end, that editors must get involved in PILs, etc. is something I don't believe in. I have been an editor for 40 years but I have never got involved in this sort of a thing. That is not my role, it’s the role of civil society. My role is to give you information, by putting it in the public domain. If you need more information, I will give it, if I have it. But it is not my role to become an activist. I am really scared of becoming an “Editor Activist”. Editors are not supposed to be activists, we have enough on our plates.

As a result of this, the media gets very angry about “due process” and wants to short circuit it. Now, the media can be bullies. I remember, on many channels, they will ask “Tell me, is he guilty or not guilty? in five seconds”. You say that this is the information that suggests guilt
and these suggest that there were extenuating circumstances. But let other people do it. But for us to assume this role is very dangerous, but its happening.

I will end by telling you about my friend, Tarun Tejpal who was my deputy for 6 or 7 years. When that unfortunate incident happened, which, I do not condone, there was a hysteria in the media. They could not wait to lynch this person. I was shouted down on a TV programme where all I wanted to say was “He is a nice chap, a very talented person, but if he has done what he is accused of, I distance myself totally from him”. But the mood at that time was such that they said that due process should be completely jettisoned, because he is guilty. Newspaper editorials and news channels were saying he is guilty. All I was saying was that you have put the information in the public domain. Surely the matter of guilt has to be decided by the courts. You can say he looks very guilty. There is a huge amount of circumstantial evidence which suggests he is very guilty. But a TV studio cannot say “Bring a rope and hang him here”. It is, after all, a TV studio.

This bullying by the media is something that we that we must guard against. The media wants answers instantly. I have been on TV programmes where such ridiculous questions are asked. The anchor will say, “Very quickly, in 5 seconds, will Indian democracy survive?” What are you going to say? And if you don’t respond, they say you are avoiding the question, that you know the answer but not responding!

Corruption is no special issue. Corruption is a very important issue and the role of the media in exposing it is very important. But we must understand the boundaries, the lakshman rekha of our roles. We should not assume other people’s roles. Nobody has given us that mandate. We take it on ourselves, it is a self-mandate. And to some extent, it is the public that is responsible, because they applaud this thing. I think this is a negative thing and must be criticized. While we must applaud the role they play in exposing corruption, commend them on their diligence, on their consistency and their repetition of a corruption issue, we must tell them that this is none of their business. Pronouncing anyone guilty is none your business. And to suggest that due process is some sort of systemic failure, and the media gets very upset if it is suggested, is wrong. I know a lot of people get exasperated by the system and blaming the system is usually a way of procrastination, an excuse for non-action. That problem has to be tackled, but the media must be told that whatever good work they do in exposing the role is encroaching on the role of other agencies like the CBI.

At the end of the day, I would say that we are still a force for the good. Our credibility with the public is very high.

Thank you.
Question and Answer Session:

Qs. K K Banerjee, NTPC: A lot of media come forward with brand supplements to organize property fairs, highlighting positive points only? Is there any mechanism to handle this?

Ans: Raj Chengappa: There are a broad range of issues in this. It is unethical not to distinguish between sponsored supplements and other edit driven news. It is upon the readers to identify the finer points. To tag a product bad, a lot of homework is required by media, otherwise litigation is possible. In The Tribune, we have stopped this paid news through stringers in districts, which was very popular earlier.

Qs. Ms. Uma Nanduri, NPCC: Why is there a strong bias of the media to publish Delhi related news, while many important developments take place all over the country?

Ans: Justice G N Ray: These issues are very much there, like triviality of news, neutrality of news. It is difficult to do justice to such issues in a single session. A wide ranging discussion is required.

Ans: Raj Chengappa: Certain phenomenal news needs to be highlighted. Like the Kejriwal phenomena, no media can afford to put that off the first page. It is the people who have the ultimate say in the content and its emphasis.

Qs. Rajesh Ranjan, CVO, GAIL: Do you ever get a chance to share views with members of your own fraternity? If so, what are their reactions?

Ans: Vinod Mehta: I have shared, the response was not very receptive. There is corruption in media. Senior journalists are in collusion with PR people. So, media is corrupt in public perception. All journalists are the most opinionated people, full of ideologies and prejudices which make their way to the news. As a reader, you have to read between the lines.
COMBATING CORRUPTION: ELECTORAL REFORMS & POLITICAL ACCOUNTABILITY

- Political corruption in higher echelons
- Code of ethics for law makers
- Electoral reforms
- Ensuring political accountability
- Compliance to Article 7 of UNCAC
- Measures to prescribe criteria for candidature and election to public office
- Transparency in funding of candidates for elected public office and political parties
PANELISTS

Chair: Shri S Y Quraishi Former CEC

Speakers: (i) Dr. Samuel Paul Chairman, Public Affairs-Foundation
(ii) Dr. Satyanand Mishra Former CIC & Chairman, Multi Commodity Exchange of India Ltd
(iii) Shri G K Pillai Former Home Secretary & Chairman, MCXSX Stock Exchange Ltd.
(iv) Dr. Ranbir Singh Vice-Chancellor, National Law University, New Delhi

COMPERES
Ms. Krishna Hazarika Rao, OIL
Ms. Vandana Chanana, GAIL

RAPPORTEURS
Shri M.P. Singh, OIL
Shri Sudhanshu Sekhar Dash, OIL
INTRODUCTORY REMARKS BY SHRI S Y QURAISHI, FORMER CHIEF ELECTION COMMISSIONER

I am very delighted that such a topical subject has been taken up at a time when the whole nation has been talking about it. For the last one year we have been virtually in turmoil in the name of fighting corruption, starting with the Anna movement.

I personally believe that the root cause of all corruption is elections. It may sound ironical, but it is true and that is what I will prove to you. The fact that we have been asking for electoral reforms is at the root of our analysis. We find that corruption is so pervasive, that people have almost become indifferent to it, they have become immune to it, they just laugh it off, it doesn’t shock them anymore. Unfortunately the focus is only on the public sector or the government side of corruption, but we have corruption in all parts, in all walks of life in our country. Don’t we have corruption in private sector? In tax reforms? In hoarding, adulteration, contractors the way they make buildings. Anna changed that, and from indifference it was converted to quite a bit of indignation. We started talking about it, we started saying that, yes, we need to do something about it and stop it.

So when I say election is the root cause of corruption, my logic is that the most lucrative profession is politics. Looting a bank is a child’s play but if you loot the satta, the power, you have the best of everything. That is why to capture power, political parties will spare no effort - everything is fair, they will do whatever it takes to come to power. It leads to cut throat competition, no holds barred. The law provides a ceiling on expenditure to ensure that money does not play a crucial role in the electoral process, since it can upset the system and can upset the level playing field, everyone should be able to afford contesting the election and that is why there is a ceiling, but this ceiling is violated with impunity.

The current ceiling is Rs.40 lakhs for the Parliament and Rs.16 lakhs for Vidhan Sabha, which was raised 3 years ago, which people say is not adequate, that it should be rationalized. But no one says how it should be rationalized! Some people say it should be removed all together, some that it should be raised to Rs.1-2 crores, but if 1 crore is the ceiling then the poor man has no chance; therefore, it has to be reasonable. However, the Election Commission shall be open to whatever is decided by consensus as a rational ceiling, but consensus eludes us.
From anecdote, we know they spend much more than the given ceiling; Rs 5 crore, 10, 15 crores. Not just for Parliament but for even municipal wards, crores are being spent. Why do people find it worthwhile to spend so much money to fight that election? To do Jan Sewa? After spending Rs. 10 crores? Definitely not, as they see profit. If they spent Rs. 10 crore, the first task will be to recover it, so a Minister will typically call his bureaucrat and tell him I spent so much money, I have to return the loan, so please start giving me hafta or whatever his style of corruption would be. Now that is the beginning of disaster, because when the two biggest orders of governance i.e. politician and bureaucrat come together then there is no stopping. Money has been taken from a contractor so he has to be rewarded, or from corporates, then corporates have to be rewarded, to the extent that corporates even decide who is chosen to be the Secretary or JS of that Ministry. This is happening all the time. Then muscle power also has been on the increase, but at least during the election time, that one month, the Election Commission is able to neutralize it.

Initially, the first-two elections were fair but when it became more competitive they started to take the help of these muscle-men and moneyed men. Now over a period of time they, the muscle men and the moneyed men, thought if this guy is winning the election because of me, then why don’t I fight the elections myself and become respectable. So we have seen criminals contesting the elections. Till yesterday where we have seen that police is chasing them with guns, and when that guy becomes MP, the police is protecting them the next day, we have seen such cases. In such cases they started to come to power themselves.

Today in Indian Parliament we have 162 MPs, against whom there are criminal cases pending, by their own admission, by the affidavit they have sworn while filing nominations. This figure has gone up from 124 in the previous elections. Which means things are not improving and are only going from bad to worse. 30% of all MPs in this country, on an average, have this kind of background. Some of these cases are serious cases - heinous offences such as murder, rape, dacoity, kidnapping. When we say they should be debarred from contesting, they contest it, they say the law of land is they are innocent till convicted.

I have a counter question, to which no jurist, no one has been able to give an answer. My question is, that in Indian jails today we have four lakh prisoners, of which 268,000 are under trial, which means that they are not convicted yet, which means they are innocent. But you have taken away several of their rights, and fundamental rights at that - right to liberty, freedom of occupation, freedom of movement, right to dignity. You have taken away four of their fundamental rights under law of the land, when you have been pleading that you are innocent till pronounced guilty. Besides these four fundamental rights, you have taken away their right to contest elections too. So what is the big deal if these guys are debarred from contesting the elections for a few years?
The fact that when the cases are pending, and they are presumed to be innocent, all we are saying there is a maxim of law that for the larger public good, individual freedom can be compromised. And the larger public good is, if a rapist is allowed to be Minister, he will continue to rape? Once Karan Thapar asked me, what if after 15 years the person is proved to be innocent to which I asked a counter question, what if he is proved to be guilty after 15 years, you have allowed him to continue to rape, commit murder. So if you keep him out of the reckoning for some time, it will do great public good.

The genesis of corruption is therefore election related expenditure. The more you spend, the more you need to collect. Where do you collect the money from? Contractors? Corporates? The ‘Party Fund’ is such a euphemism, such a mask for corruption. In the name of election fund all kinds of corruption is done. Political/election fund has become a camouflage. When we talk of controlling spending in election, they say this is what it takes to reach out to so many people. So let there be State funding of election. That is the demand they make. Now what will happen, if State funding happens? It is the black money that bothers us much, it is not the white money. If all 40 lakh is given by the State, where does he get the 5-10 crore of bribing budget? The State cannot fund this bribing expenditure, so State funding is not an option at all. The State does not give that kind of money. I have given a suggestion where the State funding of parties, can be considered, not of election but of parties based on their performance. Let them get Rs. 100 for every vote. If you give Rs 100 for every vote, all it adds up to is Rs. 10,000 crores in 5 years, which is peanuts, which we can collect in one form or the other. At least it will end their dependence on black money.

We were able to take some decisive action when we unseated Urmilesh Yadav, wife of DP Yadav, who you know is a very famous don. We barred her from contesting elections for three years, first time ever for a sitting MLA. We also came down heavily on Jharkhand, when election was happening for two seats of Rajya Sabha, and we realized that there was horse-trading, we countermanded the election. These were two decisive actions that had not happened for the last 60 years.

We have set up an expenditure division. We are now monitoring it more tightly. In the last three years we must have seized Rs. 200 crores. But things are far from improving. Finally, all this has led to the loss of reputation of our political class, which is in the pits at the movement. “Sab chor hain” (all are thieves) is something we keep hearing all the time. It is something to be scared of, this kind of reputation for politicians shows that you hate politicians although you claim to love democracy, which is no solution. Without politicians there is no democracy. There are good politicians, painting them all black is dangerous.

We have become a superpower because of good politics. Look at our neighbours who are in turmoil. We have to get rid of the bad guys and the bad eggs. The chaos you see in the
country today is because of the moral authority which the institutions have lost. A famous saying is that “Sarkar iqbal par chalti hai” (Government runs on normal authority). There was a time when a single constable with a lathi could control 1000 people. Today it is one to one, and that also you have to see who is stronger. If the constable is weak he might get beaten. So how will you govern when the Government’s regulation goes for a six, every institution starts demanding independence? Why do we have a Prime Minister then, when everybody will declare independence? He is the man who controls the nuclear button, but you don’t want him to decide whom to post where! This situation is very dangerous. It is destroying the polity of this country, the governance of the country.

Remarks by Dr. Samuel Paul - Chairman, Public Affairs Foundation, Bengaluru

We are dealing with a very complex subject, as Chairman’s remarks would have told you. I therefore want to start with some good news. We know a great deal about how to fight corruption, what the remedial measures are. There is no shortage of the reports of the Government starting from the time of Prime Minister Jawaharlal Nehru onwards, the Administrative Reforms Commission, Special Enquiry Reports all contain long lists of measures that if we took, we could control corruption. We have public debate, books of this kind. We cannot say we lack knowledge of what to do, it is not lack of knowledge or even understanding but it is something else. That is the bad news: that despite the knowledge that we have, we are unable to get our act together and make a difference in the fight against corruption.

Even here, because our theme is political accountability, the real audience that should have been present, the elected class, is missing. They are the ones who should get this message. Whether we are in government as a bureaucrat or an activist outside, there is only so much we can do. The people who hold the reins of power, who can make decisions, should be listening to these options and themes that are available to the country. So why this paradox? We have the knowledge but we are unable to act. We must concede that probably for certain measures to control corruption, there may not be genuine consensus available. For instance, for the Lokpal Bill to be passed it took 46 years. It could hold the Guinness Record for the slowest speed to pass an Act in the Parliament. But there could be genuine reasons for delay.

The second point, a very important point is that the ultimate stakeholder, the citizen, the people who elect all the people who make these decisions, are largely ignorant. In spite of what happened in Delhi in the last two years, a majority of people don’t have an understanding of all the issues they are concerned with on a day to day basis. The ultimate stakeholders who should be holding the political representative accountable are not able to do anything, they
are not anywhere in the picture to stop the political class from doing what they should not be doing.

Third, the political class themselves, the elected people that the Chairman referred to, see these measures as high risk for them. You should ask them if they were in that position, whether they would put these measures in place. This is very risky for them, it is like cutting your own throat. As a result, we have a complete lack of political will. So it is not merely knowledge, it is the will to do things - the two should converge. That is lacking, and that explains the inaction.

I will give you a small example. A few days ago in Bangalore, where I live, the Times of India carried a two column report on an Inspector General of Stamps & Registration who was summarily removed from his job. The paper reported that this is due to pressures of various kinds. He wanted to bring in GIS to prevent under evaluation of property, to have a good 24x7 grievance redressal system, he was going to make registration available anywhere in the state, not just where you live. This did not go well with the either internal or external people. What is surprising is, that even after this report nobody responded - the Chief Minister didn’t say anything, the Revenue Minister, even Civil Society. Although we all are doing our best against corruption, but we all keep accepting it. We were not ready to do anything about it and this senior officer has been shunted out. All the seeds of the problem are right there, somebody who wants to reform, to cleanse the system is shunted out and the Chief Minister or the Ministers do not do anything, as they behold some other interest. So there is no great mystery about what the problem is.

For lack of time I want to bring to your attention two initiatives that are important. One is electoral reforms that the Chairman referred to, particularly the funding. I will go a bit beyond what you said. Experience in other countries shows, in the US and there are studies on it, individuals or people who stand for elections are being funded in a modest way, where they don’t have to depend on somebody else’s funding - corporates or any other parties. Studies show that it brings in better quality of challenges in the political scene. It brings in people with ideas that would have not normally come in. It is a way to create a more level playing field, if we are able to adopt it, although we are very far away from all these things. So let us talk about the ideal where we should be going.

If you don’t want money power to play a major role, we need to have substitutes for it and public funding is the only way. If you think about it, is there anything more basic to democracy than electing your own representative, which is more public? Then why should it be dependent on pure private funds? It should be the first activity where public funds should be given because it is the most basic thing to elect people who make rules. I don’t see any contradiction in that. We need to debate what are the feasible options? Is MPLADs more important? We
need to stop these schemes and direct the money towards funding of elections. It will spark a debate within the political classes. If we do this, no additional funds may be needed. People are going to be hurt by this, it will take a while to decide, and it is a long term process. It may not be immediately possible, but let it be there on the table.

Number two, for the citizen if you think, the millions of the people in this country, they are not concerned about the big scams, they are not directly connected to it. We are concerned about the services we receive from the Government or the State. Every day we come across someone or the other having to pay a bribe etc. If we find an answer to that, it is about modernizing our systems of administration. With access to technology, it is the right time to speed this process up. In Delhi or Bangalore we have great examples of how this system of service delivery can be improved a great deal, if you put your mind to it. But in some other places, we are finding that there are e-governance funds that are available but are not being used. Technology is there, pilot projects will be run, but scaling it up or replication is not being done. That is where the resistance comes up. We can do it if we put our minds to it. Will the citizens be able to make use of it? Now there are a number of states that have created Citizen Services Centers where a number of young people are running enterprises, making services available at Rs. 5 or 10 for a service. Even if you have not adapted to technology, there are little shops you can go to make use of it, so let us not use that as a reason why technology will not work.

The second track that we need to take, apart from the electoral reforms, is really tidying up our delivery of services which is where a vast majority of our people are impacted. That is what we should learn from other countries, because for citizens life is much easier when they can transact business with Governments. We are not there yet and that is the way forward.

Remarks by Dr. Satyananda Misra, Former Chief Information Commissioner & Chairman, Multi Commodity Exchange of India Ltd.

There is a near universal consensus that political parties must be more accountable than only subjecting themselves to elections every five years. In fact there is a demand that there must be daily scrutiny. It is also believed that most of the corruption in public services is rooted in the manner in which political parties operate, especially the way they route funds and the way they spend.

We have seen that in the public discourse, we are only concerned how political parties raise funds, we know they report to the Election Commission and to the Income Tax Department, because they have to file IT returns. Neither the Election Commission nor the IT Department are particularly scrutinizing how exactly these funds are spent. You and I know the most
prominent figures in India, who have been only politicians and not businessmen, the only salary they would be getting is by becoming MLA, or MP or politician, and we know they would be getting less than what we get in public service. Yet, even after being in service for 20-30 years, how many of us use first class air tickets, or stay in five star hotels. But all these politicians have been doing that. Have we ever asked from where they have got the money to spend? So income is important, but more important is the scrutiny of their expenditure. There is no mechanism for that at present.

The belief gets strengthened when political parties claim that they get money in denominations of less than Rs. 20,000 each. In fact one of the political parties, which ruled a state for several years, claimed that from inception till now it had not received a single donation of more than Rs. 20,000 or more in one go. Even major political parties claim that 10-11% of their total annual income is from donations of above Rs. 20,000, the rest come from donations in the denomination of Rs.1, 5 and 20 and so on. This Rs. 20,000 limit is fixed by the Election Commission. You have to reveal the name of your donor, if the donation is above Rs. 20,000. The IT department also mandates you have to report only about those who donate more than Rs. 20,000.

Presently all our laws seem to be inadequate to enforce any more accountability than compelling the political parties to disclose the source of a fraction of their funds only. It is in this background that the order of the CIC passed last June under Right to Information should be seen. You would recall that in June 2013, CIC had passed an order to which Shri Qureshi had just now referred, in which the CIC held that six political parties, which were under consideration at that time, are Public Authorities under Right to Information Act and RTI must apply to them. So a political party which is not even contesting an election, gets a donation of Rs. 50 Crore from someone and says that it got it from 10,000 or 10 lakh people in denominations of Rs.1, 2 and 5 it is valid. The implication is that serious.

I believe generally after having seen the RTI from close quarters that no Lokpal or Lokayukta can do what the RTI can do. There needs to be enough patience. If the RTI is allowed to be implemented in the spirit in which that law was made, in the next decade or two there would have been enough reform and sustainability in the system to eliminate and prevent a large degree of corruption. It is not by punishing one or two people and making big headline news that you can really eliminate corruption, neither political nor administrative.

We mostly think that fund raising by political parties is problematic and may conceal the roots of corruption as it builds a nexus between the politicians, i.e. the future members of the Government in power, and the donors. In my view, as I said, equally problematic is the manner in which the funds are spent.
The strongest ground on which the CIC order is premised is that political parties indirectly receive substantial funding from the Government under the IT Act. No registered political party is required to pay Income Tax on its previous year’s income. That is the provision in the IT Act. There are 1400 registered political parties. Which means that whatever income these 1400 parties get, we can allow exemption on tax from them. This exemption is almost unconditional, except that they have to report the names of the donors who have donated above Rs. 20,000. Since these donors continue to remain nil or 10-12% of all donors, there is virtually no knowledge as such outside the political parties’ High Command or the Treasurer’s office, as to where such donations come from. So the EC or the IT department has no provision under any law to probe into the sources of funding other than the disclosures voluntarily made. There is absolutely no oversight or scrutiny on the expenditure. Under the scheme of the Income Tax Act no other entity is allowed such unfettered unconditional exemption from tax liability. The Election Commission’s oversight functions are not elaborate and penetrative enough to keep the political parties sufficiently disciplined in this matter. Therefore, the applicability of RTI to these operations is so very important. It is not surprising that the political parties should feel so uncomfortable with the idea of transparency.

The decline in esteem and a near absolute disdain, contempt and mockery in which citizens hold the politicians and political parties, should compel the political classes to reform themselves quickly, not only for the obvious public interest that transparency involves, but also for their self-preservation. Because it appears that the trend in society is now of eliminating the political class, although it seems impossible. But at least we wish to eliminate it. All they need to disclose under the RTI are details of sources of their income and expenditure. The opposition towards RTI has only strengthened the popular suspicion that the political parties have much to hide, especially about their crony fund givers and the manner in which they spend these funds. I urge that the political parties adopt RTI without any further delay. They must try and appear to be committed to the values of transparency. I must add a caveat though: bringing parties to RTI and forcing them to disclose will not be enough unless the information is used to hold the parties accountable.

The candidates contesting elections have been routinely disclosing their assets all these years, but has even one of them been held responsible for the rise in his or her income? During elections, newspapers have been routinely reporting about so many politicians, including Chief Ministers of States, after comparing their affidavits for previous election and now, as to how their income and assets have increased. If you compute the salaried income of the Chief Minister for that period, it would account for only one-tenth of that increase. Has anybody really scrutinized and taken that person to task? Have the Income Tax Authorities or anybody else asked these Chief Ministers about how their income has increased? So what is
the point of disclosure - the disclosure will be of use under RTI or otherwise only if there is an extremely sensitive civil society which would hold the politician to task for that rise.

In sum, I would say that RTI is a very potent tool, if it is applied slowly and certainly, for doing a lot of good in the government. It will do a lot of good if it is applied to political parties. Much as they may want, for the reasons given by me, they cannot wish away that they are public authorities. They are very much public authorities. Shri Qureshi and Dr. Samuel Paul have been advocating state funding of political parties but if you see it correctly, already there is a considerable degree of funding. If a political party shows annual income of Rs.100 crore, 30 crores is what the Indian public is really surrendering by way of income tax. So already there is a lot of funding. You could give them more, but the theory is that if you give them more, it will be pocketed. I have very close knowledge that in Madhya Pradesh, during elections the High Command sends money, and for many of them that is the money they save for the future. Therefore, if you give money that would be pocketed, I don’t know how the Election Commission will keep a tab on the expenditure.

So finally, I would hope that this Bill which has been introduced in the Parliament to amend RTI Act will not be passed not now, not in future and sooner than later, the political parties will bring themselves under the RTI. It would solve a lot of our problems.

Thank you.

**Remarks by Chairman**

One small correction- the number of political parties was mentioned as 1400. That was an old figure. As on today, we have 1550 registered political parties.

**Remarks by Shri G.K. Pillai, Former Home Secretary & Chairman, MCXSX Stock Exchange Ltd.**

We are basically looking at electoral reforms and political accountability. But what is very important for us to understand is that nothing in a democracy takes place until the public participates and puts pressure on the politicians.

I will give you a classic case-Shri Qureshi would know- the expenditure on elections in the state of Mizoram is probably one-tenth of what the ceilings are put. Why? Because there the Church and the student bodies do not allow the candidates or the political parties to incur any expenditure. They decide on this day, at such and such place, we will put up a small platform, all the candidates for MLA of the constituency may come up on that day, and speak to the people who have assembled, and tell them what they would do, and the people will decide for you. You are not allowed to put banners, not allowed to go around in election. Therefore, the
candidates don't have to spend, to recover or recoup their expenses. It is the public which puts the pressure.

How many of us have ever contributed to political parties? Let's have a show of hands-how many of you have ever contributed money to political parties? I see no hands going up. If you don't contribute to political parties how do you expect democracies to run? In US, millions of Americans contribute $3, $5, $10 & $100 millions of dollars. They all contribute to their political party-Democrats or Republicans. Public opinion is only as much as we participate. If we don't participate, we have no right to keep saying things.

Today if some student from North-East is attacked, we say that we should enact an Anti-Racist Law. As if we are short of laws - we have enough laws to take care of any number of things happening today. So it is an excuse - pass another law. After the December 16 gang rape case, a law was passed. But have gang rapes stopped? The number of gang rapes has actually increased. May be it is just the number of people coming out and complaining, but the number of cases has certainly increased. So I think that the fundamental principle for us to understand is that unless there is public opinion, no law works.

I worked as a Principal Secretary to a Chief Minister in Kerala, an unusual person in Indian polity, Shri A. K. Antony, for three years. He has now become Union Defence Minister, but he is one extreme element. When he was a Chief Minister, anybody in the public could go and see him. He had no visitors, nobody came for any representation to him, because he would not say that I will do this, I will do that. He would say that I will examine your case, and nobody wants anything to be examined. Everybody says pass an order, give me sanction for this and so on. He would be sitting in his office and would have a lot of time. If you went to meet him, he would be free, sitting there either looking at files or meeting a few people. But we have that problem. While all MLAs today talk about wanting police reforms, the reforms have not come because MLAs want control of the police station. The SHO must be the MLA's man. Why? Because the MLA then can do a lot of things, if the Station House Officer is his person.

These are the type of things which we need to really examine upfront or try to discuss in very general terms. Actually, I would trust a politician any day to a fellow bureaucrat. Let me tell you that they are far more sympathetic. The average politician is more attached to what is happening on the ground, there are any number of cases, instances, where I had problems with bureaucracy but not problems with politicians who understand the situations much better. They are under pressure from their constituents.

I know one Minister in Delhi. Every day, at least 200 people come from his constituency in a tribal area. They want to come, they come with complaints, and they come with all sorts of requests, and so on. When they come they expect, because he is a Member of Parliament and
a Minister, they expect to be looked after, they expect to be given a cup of tea, they expect to be possibly put up for a night before they go back the next day. Now if he is spending 500 rupees a day on, sometimes on 200 to 500 people every day for 365 days in the year, where does that money come from? So the whole concept itself of a politician is, in fact, such that you need to pay, and pay them very well. Senators in United States get paid very well, hundreds of thousands of dollars in annual salaries. But here we want to portray we are socialistic, so everybody says that I will draw one rupee salary, which is extremely low, which is very funny, because you find people like Mr Nandan Nilekeni also say that I will draw one rupee salary, but then you live in a palatial bungalow in Lutyen’s Delhi, you travel business class all over the place and all that expenditure is not counted. But as everybody says, that one rupee is what we get. Therefore the socialistic pattern we have in our minds, we want them to be socialistic. We want them to wear khadi clothes, if at any moment they wear a suit, you say oh, he is not a politician. Why not, why can he not wear good clothes, but you still want him to wear khadi because still in our overall thinking, we have Gandhism as a big element. The country has large elements of people, who are poor, therefore you still want him to be linked to the poor and not to the elite.

It is in our mind-set and our mind-set itself, when we go, we expect the MLA to do this. In fact in Kerala you will be surprised, that for any death, birth or wedding in his constituency, the MLA is supposed to be there. Not only he does he attend it, but his opponent who lost the election will also be going there. Every time an MLA is not present, the other man comes and says ‘see, the MLA is too busy to come and look after your problems’. That is a type of contradiction which is there and the pressures that are there on politicians. So we have to look at that element and I think that is extremely important. If you look at the Aam Aadmi Party or the Anna’s movement, you are looking at this change because what has the Aam Aadmi Party done? It has made entry into politics very cheap, because today if you want be become an MLA or you want to become a MP upfront, political parties will ask you to put up Rs. 5 crores, 10 crores, only then you can bargain for a seat. The Aam Aadmi Party has said you don’t want to pay any money, we will give you a seat for MLA and there are lots of people who are not linked to the system.

When we look at some of these issues I am trying to put this in the larger context because it is important to understand. We say people are complaining about police, but the police protects those they are supposed to protect – whether it is me, you or poor people in the slums. For all these people whether police is there, the police are suspended or something else, it does not make any difference. They are anyway going to be harassed, there are anyway going to have criminal cases against them. So there is a constituency which will say, yes we want to go into this, we need to be responsive to such people and see that justice is given to them.
Look at the Supreme Court itself, look at the fees charged by the lawyers in the Supreme Court. How many people in India can afford a case in the Supreme Court? I am telling you, I know a retired secretary who is facing a case. He owns an office, and two flats. He already has to sell one flat, what happens if at the end of it he is acquitted. Will Government reimburse the money? I think these are cases which are important for us to understand.

Regarding some of these issue on the political expenses, I think what is very important for us is a code of ethics. Mishra ji talked about it, in elections they showed I have got 15 crores last time, now my assets are 45 crores. It is very easy to account for that 15 crores to 45 crores. He will just say, I bought a property valued at 16 lakhs and when I sold it became 50 lakhs and therefore my income has gone up. Now why he got it at Rs.15 lakhs, a property which is worth Rs.10 crores? Why was it given to him in 15 lakhs is really the issue. But in one sense, that is something which all of us have to look at, and to understand that, unless you have a public movement in terms of forcing political parties to make the changes, there will be no change.

Which is why for the last 40 years no police reforms have taken place. Unanimously, across the board, all political parties look upon the police force as something to further their political interest, and as long as for them it is something of a political interest, they are not concerned about the rule of law and everything else. You can keep making more Commission reports etc. but it will not take place and that is why it is so important for us as public to participate, and much more, to put the pressure on the political parties and politicians if you want change. You can’t just in one sense have a seminar here.

As I said, 50% of people should have been politicians here, if they really wanted to get there, because the top 5 or 6 politicians are talking completely different things. It is their life and bread, they are running the most successful business in India. We have to see how successful they are in money making, and therefore unless we start looking at these issues on a basic level, we will still be holding seminars and discussions, but you will not really make any change, which will really come from the grassroots movements in the field.

**Remarks by Dr. Ranbir Singh, Vice-Chancellor, National Law University, New Delhi**

I think whatever I was to say has been said, but let me begin with quoting what Andre Wright the French philosopher - guide had said: “Everything has been said already, but its good to repeat things”. So I will go by Andre Wright’s works, and repeat things.

I will speak in the backdrop of two incidents – one, the judgement of the Supreme Court regarding None Of The Above (NOTA) option, which would go a long way in electoral reforms, and second, the unfortunate instance of the failure of the efforts of a Minister trying
to come out with a legislation for electoral reforms. In that background I have a beautiful paragraph from Charles Dickens, which I have slightly modified from the past tense to the present tense. I would like to share with you that says:

“It is the best of times, it is the worst of times;
It is the age of wisdom, it is the age of foolishness;
It is the epoch of belief, it is the epoch of incredibility;
It is the season of light, it is the season of darkness;
It is the spring of hope, it is the winter of despair;
We have everything before us, we have nothing before us;
We are all going direct to heaven, we are all going direct the other way.”

I think it is very apt to keep in mind what Charles Dickens said, in the present scenario. When Dr. Qureshi spoke, I was reminded of a book I was reading by a judge who was actually a judicial officer and made his way up to the High Court. The book is “Justice & Justicing”, and the very opening lines are “Jee chahta hai sach bolun, par hausla nahi hota”. (I want to say the truth, but don't have the courage). So, I would say to Shri Qureshi, you have spoken with a lot of courage and I compliment you for that.

It is not that we don’t have success stories in this country, and if we have to take any institution’s success story in this country, that is the Election Commission of India. I think we must compliment the Election Commission of India for being a great success story in the largest democracy of the world. There are still problems, but the way they have moved is a big success. I myself don’t know much about the Central Vigilance Commission, but whenever we speak about reforms in the country, we mention Shri N. Vittal and Shri T. Seshan. The success stories of these institutions are deeply intertwined with these two people, who took upon themselves to take some tough decisions to cleanse the system. That could be a great starting point for all of us.

As a child, I used to be very close to my grandfather. He was quite educated for those times, he did his matriculation in 1898 and was a part of the freedom struggle. I used to sometimes sit with him and talk, and most of the times he was unhappy with the Government. I would ask him why are you unhappy with the Government? Is there anything bad? But he would say, ‘No it is not like this, but how is it that the country is free, but it is still working in the same way?’ Later, I realized what he probably meant was that though we were now free, things have not changed much. Instead of the British masters, we have Indian masters, the system remains the same, the system has not changed. For the poor man in this country, as Justice Krishna says, the Fourth World within the Third World, there is not much difference. As you would have seen, as per the Gupta report, 920 million people survive on twenty rupees a month. So the whole issue of corruption, the issue of law of development according to me is a big human
rights issue. When our Prime Minister says that out of 100 rupees how many rupees go to the village and are spent on development, I think it is a violation of human rights. This debate about corruption is also a debate about law and development, law and deprivation, law and diversity, law and that widening gap between the rich and the poor.

I had the occasion to attend the Law Conference of the SAARC. Nasir Aslam Zahid, a famous lawyer from Pakistan also came to attend that conference. He said “The impression I got from my first look at New Delhi was that when we go to India, I would not find the streets of New Delhi and Old Delhi as they were. They will be like streets of Paris and London. But when we went to Agra a day earlier, I saw much poverty, much deprivation and could never believe that this is a part of India, and Pakistan is still worse.” He further mentioned seeing the diversity between the streets in Lutyen’s Delhi, and those of the slums in Agra, he was reminded of a verse, which I now quote:

“Pathar ubalti rhi ek maa tamaam raat,
Bachbe fareb kha ke chatae pe so gaye.”

(The mother kept boiling stones through the night, the children satisfied their appetite with the deception and went to sleep).

As per the Constitution, there is one India. It says that ‘India, that is Bharat’. But actually it is not so. All of us sitting here, you and me, we are India. We are the middle class, we have the best of everything, we can afford good education for our children, a good life for ourselves. I know we have mostly made it the hard way, I am also from a village but Bharat is different and that lies outside this. The entire corruption starts from this immense diversity.

The devil is not the poor man, the devil is the gentleman. It starts from the top and goes to the bottom, and those who don’t have it really understand that what it is to pay somebody for a small service.

Sir, Shri Qureshi, we had that exercise with you, it is very rare that a Minister will say, a Central Minister will say that Dr. Singh let us go to the Election Commission office and discuss about electoral reforms and have some regional conferences. This actually happened, you will remember with Shri Moily, before you demitted office. It is not as if we don’t know what the reasons are for corruption, we know all about the issues. We need to have a comprehensive legislation on reforms which will include everything. We need to reorganize our constituencies, we need to have permanent monitoring committees for monitoring expenditure, Constitutional provisions for monitoring of political parties, fixing minimum percentage of women candidates, changes in democratic process to include the right to give negative vote – unfortunately all Governments are formed by negative votes now. Then we have the issue of minimum age limit which is already done.
We need permanent Committees to monitor expenditure. Talking of expenses, I would like to point out that all the schemes, including the MPLAD scheme and other schemes, which are misused. When I travel to Gurgaon, I find somebody who was driving a cycle 5 years ago, has now started owning lot of land along the National Highway No. 8, and suddenly you find the people have become rich. Who does not know that this is corrupt money. Why can it not be investigated? This can always be investigated.

Talking about reforms, I remember that there was a seminar arranged by Justice Bhandari on judicial reforms, I started researching the topic and discovered that we started talking about judicial reforms in 1924 with the Ranking Committee Report. The same is true for election reforms - Goswami committee report, Inderjeet Gupta Report, 170th Law Commission Report, the proposed Election Reforms Commission of India and so on and so forth – we have been saying it time and again. I told that panel that time has come to sit down and look into the recommendations of these Committees and then go to the politicians, the Select Committees and thrust upon them to make those changes. Those changes can always be made.

Somebody asked, how can we fight corruption, it is everywhere. I am reminded of a movie that I came across which you must see- “Mrs Smith Goes to Washington”. There is a scene where a young man, an honest senator, is referred to the corrupt senator, Claude Rains. And the corrupt senator says to him “How are you going to fight me? I am very rich and powerful. How will you fight me if you don’t have the resources, the power of wealth to fight a rich person like me?” And the hero answers, “I am going to keep on fighting because it is hopeless. I fully know that the fight against corruption is hopeless, but I have decided that I am going to fight this fight, because it is important to start something, because I know that there are many people trying to fight corruption, and trying to get other people behind them”.

We all know that such fights against corruption are hopeless, but it may be one, may be two, may be all of us, if we decide that we will fight against corruption, then somewhere we will succeed. Someone once asked Sri Aurobindo that society is very corrupt, what to do? He replied, don’t worry about the society, worry about yourself. If you reform yourself, society will reform itself. Society is not something different from you, it is constructed by people like us.

To cut a long story short, I may have over-emphasized some points, but I have also brought some areas into sharp focus. I went to the International Court of Justice and at the entrance of the Museum, there is a line that says “Everyone is responsible to everyone for everything”. We cannot say that we are not responsible. I would like to cite another couplet:

“Sari dhara saath de to ye aur baat bai, 
aap agar sath dein, to aur baat bai.
Ek paer pe bhi chalte bain log, 
dusra bhi sathe de to aur baat bai.”
Friends it is not only me, not you, Qureshi, Pillai, CVC or CBI. This is a fight which all of us have to fight. It is not a lone fight which somebody will fight in CBI office, or CVC office or the Election Commission office. Corruption is everywhere, whether we take a synoptic view or a systemic view or a symptomatic view, we will find that the cancer of corruption is not at a primary level but at the secondary level. It will not be enough to have minor surgeries here and there, we are in for a major surgery.

We are often said to be a nation of panic. We are also a nation of lost priorities. But we need to panic now, and we need to define our priorities. Tomorrow will be too late, today is the answer.

Concluding Remarks by Shri S. Y. Quraishi

Ladies & Gentlemen, this will cheer you up. You know that we are all members of the bureaucracy. We are maligned, they call us ‘babus’ contemptuously. We are considered lazy, corrupt and inefficient. But the same bureaucracy, the Election Commission of India and all 11 million people who are bureaucrats when they conduct an election, they do a great job. They have been praised today by all speakers.

Dr. Bimal Jalan complimented me after the General Elections and mentioned that see, this is the same bureaucracy. So we are effective, bright, competent and we can work efficiently if we are allowed to work to the best of our ability. I think this is something we need to propagate and publicize, otherwise the public perception of the bureaucracy, the ‘babu’, is so low that we ourselves suffer with very low self-esteem. I think we need to change that.

Thank you very much

Question and Answer Session

Prof NK Jain: Chairman of Institute of Humanism and President of All India Intellectual Forum. Government is run by bureaucrats. They need to assert in front of politicians without fear.

Ans: While a person is in Chair, a person can assert.

Shri Sunil Kumar Gulati, CVO, DDA. Politicians in India play a double role i.e. Legislator and Executive say as an MLA and Minister in the Government which ties the hands of the bureaucrats! Hence, where is the public accountability of the politicians?

Ans: There is hierarchy of decision making. A bureaucrat has to put his opinion.

Qs. What action is taken if a wrong affidavit is given by politicians?

Ans: The issue is pending. The affidavit may be treated in line with affidavit submitted in Court.
Shri Amit Mohan Prasad, CVO, Oil India

Speaker spoke about rape, murder, dacoity and did not speak about financial scams. He suggested the same should be included.

_ans: It is a valid point and will be included.

Qs. With regard to donation to political funds, are Government officials permitted to contribute, if so it may be exempted from IT.

_ans: Shri Quraishi replied that Government officials are not expected to donate to political parties.

Shri Amarendra, Assistant, CVC Suggested that online voting may be allowed like online transactions, etc.

_ans: Shri Quraishi categorically rejected the suggested on grounds (i) Security of voters (ii) integrity of voter.

Shri RK Pandey

Qs. What is your view on serving bureaucrats resigning and joining political parties?

_ans: Shri Quraishi replied that the issue is already with Govt to put in 2 yrs cooling off period for such cases.

Qs. Some politicians stand from two constituencies and then, if they win both places, he/she has to resign from one position which leads to repoll and extra expenditure.

_ans: Shri Quraishi replied that the issue is being discussed and the Parliament will decide on the same.
PLENARY 3

CENTRAL VIGILANCE COMMISSION: THE WAY FORWARD

- Role of CVC as the apex nodal agency in enhancing inter institutional synergy
- Challenges for the CVC- Globalization and transnational financial flows, multi-jurisdictional investigations and asset recovery issues
- Creating awareness through advocacy
- Engaging with stakeholders
- Leveraging of technology in improving the compliance climate
- Cultivating integrity & professional ethics at all levels in organizations
- Creating mechanisms for resolution of ethical dilemmas & conflict of interests
- Advocating legislative changes required to improve effectiveness of CVC
# PANELISTS

**Chair:** Shri Pratyush Sinha  
Former CVC

**Speakers:**

(i) Shri J.M. Garg  
Vigilance Commissioner, CVC

(ii) Shri A.P. Singh  
Former Director, CBI & Member UPSC

(iii) Shri Vineet Narain  
Journalist

(iv) Dr. Jayaprakash Narayan  
Activist

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# COMPERES

Shri S.K. Jha, ONGC

Shri Harish Awal, ONGC

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# RAPPORTEURS

Shri R K Singhal, SAIL

Shri S P S Jaggi, SAIL
CENTRAL VIGILANCE COMMISSION – THE WAY FORWARD

Introductory Remarks by Shri Pratyush Sinha, Former Central Vigilance Commissioner

Good afternoon to all of you. Initially I will just briefly introduce the subject and then leave it to the four very distinguished panelists to express their views on the nine themes that have been spelt out as encompassing the entire subject this afternoon. It is not necessary for them to say everything or whatever they have on each and every of the themes or topics, but broadly express their views on where exactly CVC moves now after 50 years of its completion.

We could not have chosen, by any measure, four better people to speak on the subject. All four of them have been closely associated with the Central Vigilance Commission in one way or the other. Vineet Narain lends his name to the Act and to the famous judgment that led to the creation of a multi-member Central Vigilance Commission. Dr. Jai Prakash Narayan was member of the Advisory Council for CVC for many years, and made very valuable contributions in how it evolved over the years. Amar Pratap Singh has been Director CBI and before that he was also CVO, and has worked very closely with the CVC. Shri Garg, of course, is still an insider and brings the vantage dimension of an insider.

50 years, as somebody said yesterday, is not a very long time for an institution, though it may be a long time for an individual. But still, it is a moment where any institution can behave like Janus, a Greek God who looks both forward and backwards. This is a moment when we can reflect back on what CVC has done; what were the expectations when CVC was formed, or when it was strengthened later by a statute of the Parliament; what we have lost, what were the things we could have done better, what were the constraints which were given by the law or by our own functioning; was it possible to push the envelope without any major changes; and, looking forward, what can be done.

We are in a much surcharged atmosphere today. There are so many things which are happening and so many things are happening under pressure from public opinion, under pressure from civil society. Organizations like CVC cannot be indifferent to that. How much of it can we imbibe and incorporate without major legislative changes, how much can we take on board merely by a little tweaking of what we have been doing and what can be a guide for the future for us- these are the issues that we should now debate and that would be a fitting tribute to the 50th anniversary of the CVC. How do we make ourselves more relevant? How do we make ourselves more contemporary? Are there any legislative changes which are required? Or is
whatever we have by way of legislation adequate? Whether there is an institutional failure or a human failure?

What should be the relationship of CVC with other agencies? In case of CBI, it is more clearly defined, but you have the Enforcement Directorate, the Directorate of Revenue Intelligence, Serious Frauds Investigation Agency, there are so many other agencies which are also in the field of collecting information or enquiry or investigating, which have a direct bearing on the integrity of the Government and on the level of honesty in public services. All those issues are very germane and they need to be debated.

I would request the learned speakers to give their frank and candid views, because I don’t think today is a moment of dissimulation. We must be frank, we must be clear and we must let our views and our opinions widely shared. With these opening remarks, I first request Shri A.P. Singh to say a few words.

Remarks by Shri AP Singh, Former Director, CBI and Member, Union Public Service Commission (UPSC)

It is a great honour for me to be here and to be given the opportunity to address this august gathering on the role of CVC and the way forward. I would first and foremost like to congratulate the present CVC and all his predecessors for the sterling job performed by the organisation during the past 50 years.

There is a Chinese proverb that says that ‘a thousand miles journey begins with a single step’. That single step to initiate effective anti-corruption measures in the Central Government was the recommendation of the Santhanam Committee to set up an apex body for exercising general superintendence over vigilance administration in the Government, namely the Central Vigilance Commission.

Subsequently in 2003, the CVC Act was passed as a result of the Supreme Court’s directions in a writ petition filed by Shri Vineet Narain which considerably strengthened the CVC and notably gave it powers of general superintendence over the CBI.

In spite of all the good work done by the CVC and its sister agencies in the last 50 years, anti-corruption is the dominant flavour of all discourse in the country today. We have seen the Anna Hazare agitation and also a newly formed political party coming to power on an anti-corruption platform.

There is a strong public perception that not enough was being done to tackle graft and that the efforts of the existing agencies were well short of expectations. Hence, the demand for a strong Lokpal. With the passing of the Lokpal Bill we have a trinity of agencies that will function on the anti-corruption platform.
The position of the CBI largely remains the same except that the Lokpal will exercise superintendence over it in Lokpal referred cases in addition to the general superintendence by CVC. Also, there would now be a huge number of additional cases referred by Lokpal and CVC which would be far beyond the capabilities of its present strength and existing infrastructure. This would mean a massive expansion of the agency with proper checks and balances in place to ensure there is no dilution in the quality of investigations. The CBI would be the premier agency to investigate cases for the Lokpal and CVC.

The Lokpal has a limited role. It can enquire into offences under the Prevention of Corruption Act committed primarily by ministers including PM, MPs, and Group A and B officers. Lokpal can only take action on complaints and cannot take up enquiries suo motto. The enquiries conducted by the Lokpal have to follow a well-established procedure.

The CVC has a pivotal role to play in this trinity of agencies. It has a very important role of preventive vigilance, a role it performs with the help of CVOs of public sector undertakings and ministries. This includes departmental action against erring employees and also steps and measures to streamline systems in organisations to make them more transparent. Auction was one such initiative of the Commission which yielded excellent results and large savings to the exchequer.

In vigilance the role of preventive is far more important than punitive. It is this area that the Commission needs to focus on, given the large number of vigilance agencies at its disposal. Preventive vigilance would mean creating more awareness, holding regular training sessions and seminars bringing out a list of Do’s and Don’ts and ensuring best practices in each organisation and removing opacity. It also includes keeping watch on officers of doubtful integrity and ensuring that they don’t hold sensitive posts.

A similar situation was pervasive in Hong Kong in the 1960s and the early 1970s, which led the Government to set up an Independent Commission Against Corruption (ICAC). While establishing ICAC, the Government realized that the fight against corruption could not be won only by punishing the corrupt, it was necessary for improvements to be made in the way the Government functioned. More importantly, fundamental changes had to be brought about in public attitude towards corruption. So the ICAC provided for fighting corruption on three fronts: investigation, prevention, and education.

ICAC has been able to bring about such an attitudinal change by educating the members of public about the costs and consequences of corruption. Mass media has been the most effective channel of spreading the anti-corruption message. Every year, the ICAC produces a series of radio and television advertisements to keep the issue of corruption in the forefront.
of public consciousness. The credit for raising consciousness of the community in Hong Kong about fighting corruption goes largely to the vigorous public education campaigns carried out by the ICAC. I feel that the CVC could well examine the ICAC model and work on the preventive and educational fronts in a similar manner.

While the provision of sanction has been removed in Lokpal-referred cases, it is still a major stumbling block and cause for delay in all other PC Act cases. This is where the CVC can effectively intervene if it is given the powers to take a final decision if sanctions are not received from the concerned authorities within three months.

All three agencies will have to work in perfect coordination and harmony if the desired results are to be obtained. While the Lokpal and CVC have been given choice of investigating agencies, in reality everybody will demand a CBI investigation as is happening in the constitutional courts. For that, as already mentioned, the CBI will have to be drastically strengthened in both manpower and infrastructure to ensure that the quality of investigation is not only maintained but also improved further.

In my presentation as Director, CBI to the Standing Committee for Lokpal Bill, I had suggested that Director, CBI should be made an ex-officio member of the Lokpal to ensure complete synergy between the CBI and the Lokpal. I would now like to suggest that to ensure perfect harmony and coordination between the three agencies, the Director CBI should also be made ex-officio member of CVC and the CVC should also be made an ex-officio member of the Lokpal.

To conclude, the way forward for the CVC is to:

(i) Focus on preventive vigilance which is its original mandate

(ii) Educate government employees

(iii) Create more transparency in Government functioning

(iv) Plan vigilance campaigns in schools and colleges by involving NGOs to change the vitiated atmosphere in the country

(v) Study and change archaic Government regulations that encourage corruption.

And, finally, a word of caution – while it is true there is a strong anti-graft movement in the country, the agencies need to move cautiously to ensure that we do not stifle growth and completely kill all decision making. This would be even more relevant when the PC Act is amended to include the supply side of corruption. That would be akin to throwing the baby out with the bath water.
Remarks by Shri Vineet Narain, Journalist

I must thank CVC that after 17 years of the judgment, I was considered to be a bonafide person to come and share my views. All these years, I saw many anti-corruption seminars at the Government level, but I think nobody thought it was worth inviting me. Anyway, I am thankful to CVC for that.

Having said that, I would like to say that though from the panelists to the President and Prime Minister keep mentioning, giving credit to that judgment, I am the most disheartened person regarding that judgment. Why I am disheartened is because my complaint was against a major scam in which money was coming from Dubai and London, it was being distributed to top politicians cutting across party lines, and to the bureaucracy. I wanted a fair investigation which CBI was not doing. I appealed to the Supreme Court. With great reluctance, Supreme Court agreed to initiate this investigation. Often the CVC is blamed for not monitoring the CBI properly. Often CBI is blamed for not investigating properly, but here I want to share with you that despite the Supreme Court’s monitoring, no investigation worth mentioning was done in the Hawala case. There is a lot of evidence against the case, but I won’t waste your time over that. The end result is that instead of getting relief on the original prayer of punishing the guilty, I got a utopian model of the CVC as a by-product of that petition. At that time, I was assured by advocates of the anti-corruption crusade, who had joined their hands with me, and who are now leading a major anti-corruption movement, and have even formed a Government that ‘Don’t worry, once CVC is created, we’ll get rid of corruption in this country’. I argued then and there that it would not be easy, but they would not listen. Now, they have demanded Lokpal. I am going to tell you that Lokpal’s fate will be no different.

The reason is, and I will make a very non-conventional statement that a corruption free society is a utopian concept. No society can ever be hundred percent corruption free. Secondly, with laws you can only check, and this has been proven with research. With laws you can only check corruption up to 5% because corruption is caused by tendency and by situation. Tendency and situation put together is adversely proportional to resistance. Laws, judiciary, jail etc. are the model of resistance. For example, when Anna Hazare said that hang the corrupt, I do not know whether you saw me on a TV debate, I gave an example of the King of France who declared that anybody found pick-pocketing will be hanged to death publicly. But when the guilty were being hanged and hundreds of people were watching, dozens of pockets were being picked.

Another example I want to give about the anti-corruption movement, which I had earlier shared with media in a seminar in IHC, is of when Anna Hazare’s dharna was going on throughout the country, one of my friends had applied for a clearance of a site plan with
Lucknow Development Authority. He struck a deal with the concerned officer that I will give you so much money and you give me the clearance by Tuesday morning. When he went to the Lucknow Development Authority on Tuesday morning and asked for the clearance, he found that the officer was not there. Where was he? He was sitting on a dharna for Anna Hazare! He called him, ‘Where are you, you promised to give the clearance’. He said ‘Come to my home in the evening with the money, and take your clearance, because right now I am sitting on dharna against corruption’!

Having said that, you must also visualize the situation. The question is whether corruption is a bad proposition? I think it is a wonderful proposition. Corruption should be interpreted with entrepreneurship. You risk your money and investment, and you get a huge reward. Those who don’t risk, don’t get reward. In corruption, what is the risk involved? Despite police, despite CVC, despite CBI, despite judiciary, how many corrupt people get punished? The risk is very little, but you make huge amount of money. There is a poem by Kaka Hathrasi:-

*Kyon beta darta hai, rishwat lekar, chhut jayega tu bhi rishwat de kar*  
(Why are you scared of taking a bribe, son, you will also be let off by giving a bribe)

Today we are talking about Lokpal. Does this mean CVC has failed? No, CVC has not failed. From Day One of this debate, I kept saying, don’t talk about Lokpal, let us strengthen CVC. We can increase the number of members, we can get a legal expert, we can get a financial expert, we can get an expert in international transactions and give them powers. With Section 6A, what do you expect from CBI and CVC? But that was not given. You create a new institution, you spend a lot of money, and you want at least 80,000 people to run this Lokpal business. Where will you get people who are transparent and honest in this society?

In Shrimad Bhagwat Geeta, Lord Krishna says “Mahajano yena gatha sapantha” (whatever great people do, ordinary people follow). Who are the great people in the society? If you just think sincerely, who are the great people, who fund academic institutions, who fund religious activities, who fund our political parties and who fund our social initiatives? They are the most corrupt people in the society. They are respected, they are honoured. If they are the ideals for us, “Mahajano yen gatha sapantha”, obviously the ordinary ones will follow them. Mahajanas are not the Learned, the Yogies, the Sacrificers. They are no more the Mahajanas of our society. Mahajanas are the most corrupt people, so what do we expect?

It is being recommended that we must educate the CVOs. Now the CVOs are most helpless guys. Many of you must be CVOs. You work in an organization, where you are supposed to complain against your own bosses. You know that you are the CVO for a short period. How dare can you do that? If a Joint Secretary is made CVO in the Ministry of Environment, can
he come to CVC and say that my Secretary is taking bribe to give clearance? No! He cannot. If you want to really have a vigilant body, at least the CVO should not be a part of that Ministry. They should be a part of CVC. They should be accountable to CVC, they should be recruited by CVC, they should be posted in a particular Ministry and then they should independently investigate or receive complaints or forward complaints, etc.

Another thing that Shri Singh very rightly said, and I have had discussions with CVCs in the past and the current CVC, is about the huge shortage of manpower in the CVC. The amount of job, forget the CVC, our own assignment in this panel is huge. Look at the topics which we are supposed to discuss, ten minutes each for people, we can’t touch upon those topics. Now what do you do with that? There are lots of experienced, honest, transparent bureaucrats who have retired from police, income-tax, IAS or other services and are sitting idle. I told Sinha Sahab long back, Sinha Sahab also made a note and gave it to the Prime Minister. Why don’t you prepare a list of such people? They are sitting idle at home, they are getting bored, they have nothing to do - just call them. Don’t give them an original file so that it gets lost or disappears somewhere in transit. Give them a photocopy of a complaint filled with all the documents to take it home, study it and come back with a note on what should we do. You get a huge army of volunteer supporters to assist you in this job. This can be done.

The third thing which Shri Singh rightly mentioned was about Hong Kong. After Hawala, when CVC was created, I invited some 22 crusaders throughout the country including Shri Ribiero and we formed a “People’s Vigilance Commission”. Though we cannot meet very often, we have been using this forum to file complaints with CVC and CVC is kind enough to respond to our complaints. Suggestions to CVC have been made earlier and on this occasion I want to give the suggestion to create a “People’s Vigilance Commission” from taluk level to the national capital level. These People’s Vigilance Commission should have a lawyer, activist, journalist, socially committed citizens. Their job should be to examine each complaint, collect evidences, legally testify everything and then file a complaint with the CVC. So at least most of your job is done by these people and you get at least a broad based complaint which is not frivolous, which is not partisan, which is not with some malice.

These are the three things which need to be done. But having said that, I want to again compliment the CVC-despite odds, despite constraints, despite political will not to give them power, whatever little they can do, they are doing. But I am afraid with Lokpal, with another Lokpal and ten years later another enactment, we are going to create utter confusion in this country. Despite all this we have not been able to check corruption. It is growing multi-fold. If we do not introspect and see where the flaws lie and do not get all those flaws fixed, we will not be achieving even marginal success in combating corruption.
Remarks by Dr. Jayaprakash Narayan – Activist

The President yesterday referred to the Santhanam Committee and recalled the causes identified by the Santhanam Committee for corruption briefly—delays, excessive control (the licence permit control raj), excessive unfettered discretion and cumbersome procedures. If we mean business, we should go beyond the technicalities, the law and the current rules and practices and see why the CVC was formed 50 years ago and to what extent we have been able to address these challenges. The President himself said that we have not been able to address these challenges substantially—and what we can do about it now.

If there are some constraints of law or something else, it is for us to figure out as a nation, as a political system and a governing system to overcome the constraints, rather than saying that these are constraints but what can I do? In India everyone has an alibi for non-performance. India is a country of champion non-performance, where everybody from the Prime Minister down to the smallest minion has a fantastic, plausible, realistic alibi for non-performance. When it comes to abuse of power, even a small chaprasi has absolute, unfettered discretion without any constraints. It is this imbalance in the exercise of power that is at the heart of the problem in the country.

I don’t think in institutions of this stature, i.e. CVC we have this hoary tradition. It has 50 years of history, it has some of the most eminent people in the country who have guided this organization, it has the support of the India’s most premier investigative agency, which is the CBI. If even this institution feels too constrained, we have no hope. We have to overcome this incredulity, we have to overcome this skepticism, we have to overcome this paralysis, and we have to overcome this sense of impotence. We have to rise above all this to make things happen and go back to the roots. That is why I mentioned the President’s reference to the Santhanam Committee – delays, excessive control, unfettered discretion, cumbersome procedures. I would like to judge CVC not on the number of cases on which you have given advice on file – it makes no difference whatsoever. You already have an investigative agency over which you have some kind of supervision. It is their job to investigate and prosecute. Your job is really to look at the bigger picture. If that bigger picture is not addressed, people like me are going to be totally un-impressed.

Let me give you an example. Shri Shankar was the CVC years ago. He and his two colleagues, took pains to visit Hyderabad and Mumbai to have a detailed conference with all the stakeholders with regard to indirect taxes. Technically speaking, I think it was not part of the functioning of the CVC, as envisaged by CVC. They went out of their way. The officials of CBEC and the Revenue Secretary, Shri Chandrashekhar (who later became Cabinet Secretary) were there. The Chartered Accountants were there, the industry was there. The amazing thing
was that it was an extremely serious exercise by all these stakeholders, including some of the most corrupt officials. Once they were given the professional task of identifying what can be done to improve the climate, they did a remarkable job.

I remember around that time talking to Dr. Manmohan Singh, who at that time was the Leader of Opposition in the Rajya Sabha. I said that if only we improve the indirect tax regime in the country, my sense is that the growth rate of India will go up by one percent, only on that one single issue. The good economist that he is (I almost wanted to say ‘was!’) he said, ‘but what is the evidence’. I said, ‘I am not an economist, I have no econometric evidence, but this is my impression’. Years later, he addressed a conference, this time as Prime Minister, and I was also there. It was perhaps the Silver Jubilee of the Centre of Economic and Social Studies, and a common friend Dr. Manoj Rao, and his colleagues came out with impressive evidence about this. Manoj Rao studied most of the emerging economies of the world and he did a severe regression analysis, removed the impact of all other factors and established that if the corruption perception index of India is improved to South East Asian level, not to Norwegian level, not to Scandinavian levels, but only to South East Asian level - the growth rate will pick up by 1.65 percent. I then told PM Mr Manmohan Singh, ‘here is your evidence. Do you still want to sit on this?’

The reason why I stated this is, we all have a collective obligation. It is not merely a policeman’s job to prosecute somebody who is bad. Of course, that has to be done. But there is a larger purpose to the enterprise called India. We are here to fulfil the aspirations of the people of India and to fulfil the potential of this country. If we fail to do that collectively, whatever we think of ourselves, however much you blame each other-CVC blames CBI, CBI blames CVC, tomorrow Lokpal comes each one of them blames Lokpal, and later all three of them collectively blame Ministry of Personnel and they blame Prime Minister’s office, they blame the Opposition - this will go on. But the people of India will rightfully blame all of us together, because we are the Establishment. And I think somewhere in this turf war in this country, this perspective is lost. We have together betrayed the people of this country by undermining growth and the opportunity for millions of people. It is a hard point to make, but I think this point has to be made before going to technicalities.

Just to substantiate this, look at Tata - India’s most respected corporate group. I am sure many of you are aware that most of their new investments are abroad, not in India. I was at their Ethics Conclave this year and what I heard is something saddening. Tatas, who are perhaps India’s, possibly the world’s most ethical groups, are not inclined to invest in India because they find the climate completely inhospitable, in a substantial measure, because of the lack of integrity in decision making. The work of CVC or other anti-corruption agencies, is not merely
about policing, but it is about making India grow. The top 50 or so corporates of India have stashed away 10 lakh crores of reserves, even today. They are simply not investing, because they have no confidence in all of us together. There is a huge crisis that is enveloping this country. In a country with the world’s largest manpower pool in the working age group, what we claim to be the demographic dividend, which is fast becoming a demographic nightmare. My appeal, a very humble appeal to every one of us here in Government, outside in opposition, in political parties, in Parliament, in Assemblies is for Heaven’s sake, there is a bigger picture. We are all birds of passage, we will all eventually die. Let us do something worthwhile to fulfil this potential, instead of working at cross purposes.

One of first things that we need to do institutionally is, now that Lokpal is being created (and I largely agree with Shri Vineet Narain if tomorrow there are fissures between CVC and Lokpal, and I am glad that Shri A.P. Singh made the point), that CVC be made ex-officio member of Lokpal. This is one of recommendations that in April 2011, a Committee of eminent jurists headed by Justice Venkatachelliah and Justice J.S. Verma had also made. Unfortunately, it has not been accepted so far. But even now, we must make sure that CVC is seamlessly integrated with Lokpal, without taking away any of the functions of the CVC. In terms of the overall architecture of the apex anti-corruption ombudsman agency, you cannot have two agencies treating each other as rivals. That will be detrimental because, good or bad, now we are creating a framework, and as I said yesterday, creating a multiplicity of agencies and each of them fighting for their own turf, is a very un-smart idea of governing India. It is better to have fewer institutions, but well designed, with a lot of integration, lot of synergy, lot of convergence.

Therefore, whether it is Section 6A of the DSPE Act, or section 19 of the PC Act, whether it is independent prosecutors, whatever is provided for the Lokpal Act, must automatically be extended to the CVC, otherwise it makes no sense at all. You are saying one thing here and one thing there. That is something we will have to work on now itself because in this Parliament, I don’t think any legislation can be passed. It has to wait for the next Parliament, which is not too far away. I think we can make it happen now if we set our minds to it, start preparing drafts and papers and persuade the next government which will be in office to take this up.

The second issue is about the CBI and the CVC’s supervision of the vigilance agencies and CBI. I am somewhat hesitant to make this point, but this point has to be made. I have a suspicion from a distance that sometimes this is somewhat perfunctory, sometimes it is pretty much there because there are some rules and there are some procedures to be followed, and they are followed in a very mechanical manner. I have compelling evidence to suggest this. I have compelling and perhaps incontrovertible evidence to suggest that some of the
key appointments made are less than satisfactory. Before asking for more role, we have to perform our role well. If you take umbrage under some procedure or something, it is not good enough. The nation invested enormous confidence in you, you better perform. If one rotten egg reaches the top it is bad enough for the country, and there are far too many.

Again, as I said yesterday - autonomy, competence, integrity and accountability have to go together. This whole talk about autonomy, autonomy, and autonomy is a very dangerous one. As I mentioned and quoted Supreme Court Chief Justice Venkatachelliah, he talked about the system of compensatory errors. So unless we really address all those four things together, there will be no success. The CVC is the right forum, because you have institutional strength, you have the history, you have the experience, you have the expertise, you have men and women who really have held offices in various branches of the Government and the banking sector for the past 30-35 years. You can really make this happen. Don’t expect anybody else to do it because they don’t own this whole enterprise. For them this is an incidental task. You have to own it irrespective of what the law says. Specifically, you would become advocates, ambassadors, entrepreneurs in making the system work. If many of us outside the Government are doing this, what Vineet has done, is he getting paid for what he is doing? Is it recognized as an official work? But he is doing it. So why are officials and politicians in positions of office feeling constrained? It is your task, it is your responsibility and you have the opportunity and access to make things happen, so please don’t give us excuses. For heaven’s sake make this happen.

The third is about CBI. If my numbers are right, CBI has about 6000 personnel. I could be wrong by about a thousand but roughly that is the number. But there are only probably about 2000 people who are actually doing something worthwhile. The rest is Ministerial Staff and Support Staff. Again, I could be wrong by some order of magnitude but not significantly. Probably, the actual investigators are no more then 1000-1500. That simply will not do. To meet with the challenges at present and in the future, unless we enhance the capabilities of the CBI – it is not merely the question of how much money we gave, how much power we give, we have to really give the capability. It will not happen in one day.

If we start the process today, I suspect it will happen in 10 years of time. If we say let CBI be 10 times this size, with greater capability, greater expertise, greater technical wizardry and other staff, may be a Serious Fraud Office which is really capable of handling it, and the issues about the stolen assets and their recovery, money stashed away abroad etc. I don’t think there are even three people in India who really have deep understanding. You can give a lecture in a general sense, but I think not even three people in the country have the required expertise. We have to develop this painstakingly. We simply don’t have it now, our capabilities are next to
marginal. If we have to begin the process now, then it will take at least 10 years because you cannot train 20000 or 25000 personnel at this level for a Federal Investigating Agency to deal with these very complex times of corruption and malfeasance just casually. It has to happen over time. We have to borrow expertise from abroad; we have to borrow technology from abroad. I think we are in no way near that. That process must begin now and I think CVC must lead the process, not only do you monitor and supervise the CBI, it is also your duty to look into the future needs and strengthen the institution and fight for CBI, because it is your baby, ultimately.

And of course, some issues about delays and discretion that the President mentioned, they are self-evident. I am only mentioning telegraphically. Service Guarantees, the issue came up yesterday. Competition, in transferring any natural resource or any license or any natural monopoly to a private entity by the Government. Monitoring trap cases when the information comes from the enterprises. These are issues we need to flag.

I know about a number of cases where if somebody cooperates with CBI or a vigilance agency in an organization, almost everybody who cooperated rued the day he made the decision. Because each one of them lost business, many had to fold up or suffer severe losses. If the price of dealing with the CVC and the investigative agencies, to do what is right for the country, is being elbowed out of the market, that is a very stupid bargain. Therefore, it is not a smart thing for them to do. It is, therefore, CVC's responsibility to keep track of all these cases where people came forward to inform at considerable personal cost and business risk, and see what happened to them in terms of market share before and after when they complied with corruption demands. Earlier when they failed to comply, and later when actually trapped, those fellows, therefore, became a threat to an agency. You will see a pattern emerging at once. If it is known that the CVC is actually monitoring these cases, suddenly your public personnel will start behaving well. I am afraid that the process has not yet been started, to the best of my knowledge, at least it is not effective, but it must be done if you want the citizens to really be your partners, if you want entrepreneurs to be your partners, if you want industry to be partners in curbing crime, curbing corruption then we have to protect them in a very intelligent way.

We also require a Cell if the business wants to point out the hurdles, when you do not have a specific complaint about the corruption of somebody, but they have some process issues or general information about some agencies etc. I think a Cell must deal with these things and take them seriously, not every silly complaint, but depending upon the source of information. If a Rs.1000 crore enterprise makes a complaint in writing, even if it is in secrecy, I presume they would not do it casually. And if they do it casually, after two times you would have dismissed
it. I am sure there are some fellows who made all kinds of claims, but sometimes you know how to throw it in the dustbin. But you must have a separate Cell and people must know that you are dealing with them seriously. You are following it through so that the processes are improved, the procedure is improved and preventive action is taken before it actually becomes a stink of corruption.

About officers, whether it is CBI or elsewhere I think the CVC must start having a dossier on key officials in all agencies and go by reputation not by the wretched record, for heaven’s sake. If the confidential report is the basis on which you are making the assessments, God save this country. All of us know that reputation is the surest guide in India. Everybody knows in the market, among the industry, among general public, the media and most of all your peers and colleagues, who is corrupt and who is honest, everybody knows. Everybody in the country knew P. C. Parakh was a man of unimpeachable integrity, except the man who is investigating him because we refuse to actually go with the most important piece of evidence. Reputation can rarely go wrong. The papers almost always go wrong because we learn to clean up paper. You have to depend on papers, I agree, but the paper is incidental. It is only corroboratory and you must boldly start a confidential dossier, so that you know, so you don’t commit mistakes. If the CVC makes an appointment or recommendation that is in some case merely because you have used the record, you don’t have any other information or you failed to take cognizance of other information, you are undermining your institution and the public trust in the national institution. The damage done is incalculable because even if it is one or two cases, the whole nation is watching. Please remember there are millions out there and we know what is happening. Not everybody is an idiot. There are a lot of people who have contacts, who have skills, who have knowledge, who have capability. We owe it to ourselves, to our country to take our task much more seriously. I mentioned new instruments yesterday – the wind fall profits tax, false claims tax - I don’t want to go in greater details, I will certainly pass it on to CVC.

Go beyond the recommendations - advocate, fight, bully, make it happen. I had mentioned capital flight already. The Administrative Reforms Commission (ARC), of which I was a member, recommended the Serious Fraud Office with a serious intent. It is time that we took that seriously, particularly capital flight, because I am not really bothered about how much capital flight has taken place already. The global financial institution Integrity has done a very incredible job. I don’t believe in the trillions of dollar figure, all are bogus. But these numbers are very credible; they came up with a very believable number of 490 billion dollars for the past 60 years at current prices. In a growing economy, this number will go up further and the impact will be felt only in 10 -15 years. Therefore, we need to start this process now and prevent the future flight of the capital from this country.
Two things I will conclude with. Somebody yesterday made an important point. Sometimes an excessive quantum of punishment you recommend may actually become more difficult, and Vineet made the point when pickpockets were being hanged, pockets were being picked. Far more important than strict and sure punishment, perhaps more than hanging will be the punishment of property confiscations. In a country like India, where all of us live for our children and for nothing else, that is particularly an Indian pastime, if it is guaranteed that not even a dime will pass on to the children of those found to be corrupt, I think it is a much bigger guarantor than hanging and putting away for twenty years. Let me give one example. Dr. Arun Sharma and Kiran Sharma, a Texas physician and his wife, for 25-30 years defrauded the American medical system. A federal court in Boston tried them and sentenced the couple to 15 years of jail. The real thing is, they confiscated every dollar and every dime of the 35 million dollars they stashed away - their jewellery, their equity, their property, their cash and deposits, everything. Their children inherit nothing, zilch.

Take Rod Blagojevich - some of us may recall that he was Governor of Illinois when Barack Obama became the President. Barack was Senator from Illinois, if we recall, and during the interim period till the next election was held, the Governor had the power to nominate a senator to the high office of 100 parliamentarians in United States, probably the world’s most prestigious legislative body. And this Governor, he simply bargained for a quantum of money. Not as a bribe, mind you. He wanted the money to be given by cheque for his re-election campaign. The sum was about 100 – 150 thousand dollars. All of you know that it is chicken feed. In India, typically for a Rajya Sabha seat, each vote of MLA cost 1 crore rupees, so if you need support of 40 – 50 MLAs, you need 40 – 50 crore rupees. In the American context, to be a Senator, 100 thousand dollars is just chicken feed. It is an amazingly small number, and that to the election fund by cheque. The money was not even received, there was no actual consideration, and there was no decision, no nomination. The FBI was simply investigating him earlier and he was kept under surveillance, therefore this conversation was recorded. What were the consequences? Rod Blagojevich, the Governor of Illinois, one of the largest States in United States, with an economy bigger than India, within weeks lost his political office as the Governor, and his future was buried. Secondly, he was sentenced to 14 years in prison. Thirdly, all his properties were lost and his wife and daughter are practically on the street.

We need to show some exemplary cases, whether it is from CVC or Lokpal. For the citizen of India these details are not important, but we have to focus and stiffen the punishment for a few select cases, particularly work on the property confiscations. Therefore, one of the things that we have to make happen is that the current confiscation provisions including the PC Act amendment or the Lokpal Act are not enough. We have to go for something like the SAFEMA. The Law Commission in its 166th Report came up with a draft Bill on the lines of
the SAFEMA Act on the Supreme Court recommendations. It is gathering dust for the past
15 years almost. Already the Bill is there, we have to summon the will to start with.

Having said all this, I think we should still see the silver lining. I still maintain there is no room
for cynicism and despair in this country. Yesterday, a senior official, a lady said, I have a quarrel
to pickup with you. Everything is fine, but you said, “Values are not the issue, institutions
are.” Let me come to that. My argument is that always there are values. In society there are 5%
people who always do what is right. What is the meaning of right - what is good, what is bad?
If a person is capable of synergizing, harmonizing individual gain with public good, and does
not allow one to be in conflict with other, that is a good person. If a person’s individual pursuit
of goals is always in conflict with public good, then that is bad. I don’t care what religion you
practice, I don’t care what definition in law you have, but this is the essence of goodness and
morality. There are always 5% people who have that sense, who do not require law. There
are always 5% persons who always see individual gain as something necessarily antithetical
to public good. I have to hurt the society to gain – that is the way their DNA is wired. The
problem is not with the good guys and the bad guys. The problem is with the rest of the
90% guys. If the good guys are consistently respected and rewarded, and the bad guys are
consistently penalized, arrested and humiliated, most of the 90% will gravitate towards good.
But if the good guys are harassed and penalized and humiliated, and bad guys are consistently
and extravagantly rewarded, the 90% will gravitate towards them and that is the reason why I
am saying institutions, institutions, institutions.

Nobody can argue that morality is not required, that will be absurd. If that is the only issue, we
don’t require the Government. That is why Gladstone said that the purpose of Government is
to make it easy for the people to do good and difficult to do evil and he practiced it. Around
the time Gladstone, became Prime Minister of Britain, a Member of Parliament in Britain
wrote a letter to his constituency which is still preserved in the British archives, and I am
paraphrasing it. He said - you know and I know that I bought your constituency and therefore
my office of Member of Parliament at 5000 pounds sterling. It was practically a public action
in those days. You do not know that I know that you have already chosen your next MP, and
you bargained for 8000 pounds sterling, with another gentleman. Hence I will not be your next
MP. But what you should know is that I have already bought another constituency for 3000
pounds sterling. And both of us have gained. I bought the same office for 3000 pounds less,
and you sold the same office for 3000 pounds more. So both of us have gained.

Then came Gladstone. He understood the malaise of the British institutions. In 1868 he
first became Prime Minister, and in 1890 he left office after four terms as Prime Minister,
intermittently. By the time he left office in 1892, the foundation of a truly Great Britain was
laid. Because he understood the malaise, he built British institutions and strong foundations.
That is a way forward. We can do it. I ask each of us to believe this, and work on it systematically, because there are sound principles based on our experience, expertise in this country and global practices, because in the end, we are all same, we are human. Thank You

Remarks by Shri J. M. Garg – Vigilance Commissioner, CVC

I am at the moment a part of CVC, whereas other panelists have been connected in one way or another with CVC. But I have to be a bit more careful as to what I speak because it will be construed as a statement made by the Commission. Nevertheless, I would be very forthright and candid, because the subject is very serious. In terms of 50 years of journey of the Commission, which we have travelled, and many of the CVCs and the VCs, and many of the past CVOs may now be occupying the positions of the Heads of organizations today. They have also travelled this journey and they have actually contributed immensely to the institution of the CVC. But it is often said that, because of CVC and CBI and CAG, the three Cs, there is a policy paralysis. We are not able to take decisions. Then I ask a question to many of the colleagues who complain about it, that in spite of three Cs, why is the most important C of Corruption going up? If you really are afraid of the Cs, then why are people getting into corruption and it is going from small to grand. That is what we have witnessed in the last 50 years, when based on the Santhanam Committee report, the CVC came into existence.

I would not like to recount what my other colleagues have been saying on the panel, but I would like to quote a very important part of Santhanam Committee recommendation made at that time, and the real issues which were raised. It is a very comprehensive report, if ever you have occasion to go through it, I recommend that please do go through it because that will give you an insight into its relevance today. What is written in this report, if even today it is implemented in true letter and spirit, I think the effectiveness of vigilance in this country will improve vastly and the institution of the CVC will get strengthened. I would like to quote what he has mentioned, just for the sake of the knowledge of the many who have not had the occasion to go through that, and I quote – “corruption cannot be eliminated or even significantly reduced unless preventative measures are planned and implemented in a sustained and effective manner. Preventive action must include administrative, legal, social economic and educative measures”.

I think this is the topic today which contains so many parts; it is covered in the opening remarks which are made in the particular chapter on preventative measure in the Committee’s report. It goes on to say, “Each Head of the Ministry/Department or Undertaking should be responsible for checking corruption and create an environment which will discourage corruption. Therefore, there is a need to be watchful to keep a tab on the senior functionaries, systematic and through review of laws, rules procedures and practices should be undertaken.
for deciding, (a) discretionary powers (b) level at which such powers are being exercised (c) manner of exercising of such powers (d) the control exercised within the hierarchy over exercise of such powers (e) the points at which the system comes into the contact with the concerned Ministries/ Departments and Undertaking and the purpose for which they do so”.

If you look at this particular paragraph and its importance, CVC has been trying right from the beginning to educate and promote and take preventive measures and making a whole lot of suggestions to various Government of India Undertakings and Ministries to improve their system and procedures, simplify their rules, reduce discretion and take decisions in a transparent and fair manner. But still, I think a lot needs to be done. Therefore, it says, “a thorough study should be made in respect of each Ministry, Department, Undertaking to the extent possible, and the mode of corruption, preventive and remedial measures prescribed if any and their effectiveness. We recommend that such study should be started on priority basis in respect of each Ministry, Department, Undertaking and CVC should pay attention to this important aspect of the work for which Government may provide necessary staff and the wherewithal”. Has this been done? I have my doubts. Is anybody serious about this? That also is doubtful, because with the kind of infrastructure the CVC has and has had in the past, I don’t think it is possible.

First of all no institution, anti-corruption body in this country or any country, for that matter can make itself effective unless and until there is co-operation from each and every part of the Government machinery. Each Ministry in the Government of India, each Public Sector Undertaking, which is under our jurisdiction and each department, if they do not co-operate and support, the efforts and the advisory role which is being played by CVC, then, this vigilance administration will always remain a losing proposition. It is not going to be effective in terms of curbing corruption as we look today at CVC.

Therefore, we at CVC definitely would like to reflect on what we have achieved in the last 50 years, and now what we are supposed to do, may be in the next 25 years. The real problem of this malaise in society, that is, corruption cannot be eliminated overnight by single law. If it has to be eliminated, it has to be done through a series of initiatives and by a multi-dimensional approach and where every citizen of this country, every senior functionary of the Government of India as well as the leaders of the business community will have to participate whole heartedly and sincerely.

I know most of the audience here. They are into vigilance including many CVOs. There was a mention about, even by the President and Shri Jai Prakash Narayan has mentioned about the four causes of corruption, which basically cause bad governance, that the cause of corruption is nothing but bad governance. Unfortunately, our country is a country of deficits. We talk
about fiscal deficits, we talk about current account deficit, we talk about governance deficit, we talk about courage deficit and of late we have started talking about trust deficit. There is a lack of trust in various parts of the country between society and the Government, between the bureaucracy and the politicians, and between the media and the Government. So there is a whole lot of deficit.

In this present scenario, the challenge before CVC, to deal with them is really enormous. The CVC has taken many initiatives in the past and especially during the last three and half years. Many initiatives have been taken to ensure that the vigilance administration gets stronger and we can bring down corruption to the minimum level. Nevertheless, the way we have been functioning and the kind of legislation which is in place in terms of CVC Act, 2003, there is a limitation.

I have to acknowledge that within those constraints, we have done a few things that I would like to mention, so that it is understood in the proper perspective. After the 2003 Act came into existence, the one major function which CVC was given was of superintendence over CBI, which nobody clearly understood. When I joined CVC in 2010, we tried to understand what to do in terms of superintendence over CBI. The CVC was given responsibility also of chairing the committee which recommended the panel of names for selecting the Director, CBI and also officers of SP level and above. The Committee, headed by CVC, recommends the name based on which senior appointments in CBI and Enforcement Directorate are made. The Director as well as senior officers in the Directorate are appointed by a Committee chaired by CVC. So these are additional responsibilities which are taken by CVC. The superintendence over CBI has taken a shape and we all are looking for more clarity on that as to what extent the provisions in Section 8(1) (a), (b) and (f) can be further refined so that we can have a different meaning in terms of superintendence over CBI. The CBI has been more than forthcoming in terms of co-operating and listening to CVC’s advice in terms of their cases which are being investigated by them. I hope that with this Lokpal Act having been passed, which entails additional responsibility on CBI, in future things will be much better and much clearer.

Having said that, I would like to add that CVC has also introduced the system of Independent External Monitors (IEMs), because in our Public Sector Undertakings, both in the Central and State, they are procuring Rs.25 lakh crores of goods and services per annum. In the CVC we have the Chief Technical Examiner’s Wing which is supposed to do intensive examination, but because of limited manpower, we are able to do only the intensive examination of 60 to 70 projects in a year, which involves about 6000 to 7000 crores of rupees which is a minuscule part of the total procurement. The integrity of procurement in this country by the Public Sector Undertakings has to be ensured through the system of Independent External Monitors.
Although the system is there in vogue for the last 6 years, it is yet to stabilize because the role of the IEMs in terms of maintaining the integrity of procurements by the concerned agency is yet to be fully understood. Even though many PSUs have appointed IEMs on their own, still a huge amount of procurement is taking place in this country, where there is a huge leakage, and the country is losing out money by way of corruption. These contracts, whether it is defence, whether it is civil, whether it is in oil companies, or in railways for that matter, everywhere we find that there are transgressions. The people involved, simply say that we do not know the rules. Even after being in the business of procurement for 20 – 25 years, they still take the alibi that they do not know the rules and therefore, it is not their fault if something goes wrong. Though this issue is likely to be discussed and debated in the Commission, I would still like our audience to respond whether with the kind of workload that the Commission has, the Commission which is a three member body should be expanded and made a five member body.

Secondly, in section 11 of Lokpal Act, there is a provision for a preliminary enquiry against any officer. There is a provision of a separate Department for Inquiry headed by a Joint Secretary level officer. But in CVC we do not have such a Department. Question arises, who shall conduct preliminary enquiries entrusted to the Commission by the Lokpal. At present there are Commissioners for Departmental Inquiry, who are doing departmental inquiries. There is no department separately in place and the Commission largely depends on the CVOs and the CBI for investigating corruption cases. Now, if within the Commission also there is going to be a separate Directorate for conducting inquiries not only for the Lokpal referred cases, but also CVC cases that are fit enough, we need to have this kind of establishment.

Also, preventive vigilance should be the main function of the Commission and the suggestions of the Commission should be mandatory for the various Ministries, Departments and not just advisory, because we have found that by being advisory only, the CVC is not taken seriously.

The annual budget of the Commission is supposed to be charged to the Consolidated Fund of India, just like what is now provided in section 40 and 41 of the Lokpal Act. I think the Commission should also have full freedom in terms of deciding about its own budget, and a major part of the budget should go towards the awareness campaign, which is the primary function of the CVC.

The CTEO organization has to be expanded to control and have a review of the procurement process which is taking place in the Government organizations. I also agree with one of the panelists when he says that the vigilance staff in each organization and the CVOs are the most vulnerable, because of the very nature of their work, they do not get the support of the CEOs everywhere. I really feel sorry for them when they face difficulties in their
respective organizations. Therefore, CVO being the extended arm of the CVC has to be made independent of the control of the CEO as well as that of anybody else. Unless and until that is done, the CVOs will not be able to do their job, and the vigilance administration over which CVC is supposed to have a stronghold will continue to be the loser. Similarly, CVOs in the ministries who are part-time at the moment should be made full-time. Why cannot Government of India give us the manpower to be in Ministry as a full time CVO on behalf of CVC? That will only enable us to conduct vigilance audit of the Ministries, which we are not able to do today.

There has to be adequate staff under the control of the CVO in the Ministries at his command, and he should always be provided with the investigators who should be able to investigate complaints against the senior officials of Government of India and PSUs. At the moment, we do not have vigilance control over the senior functionaries, except through the concerned Ministries, and that too through part time CVOs within the organization. They only have jurisdiction up to a certain level of officials of that particular PSU, but not on senior officials. I have never heard of any agreed list with name of any CMD of any company or corporate, or any Government of India Secretary in the watch list. As Dr. Jai Prakash Narayan said, in the CVC we should have a dossier on the senior officers of the Government of India. I think that is a good suggestion. Now CVC has to act as a nodal authority to synergize all anti corruption bodies. We should also have cooperation with CAG because there should not be any duplicity between what the CVC and CAG do.

The last point before I conclude, is that India is a signatory to UNCAC. Everywhere I go in international conferences, they look towards the CVC for guidance as an apex anti-corruption body. Also, we are an executive member of IAACA. So, I would recommend that the CVC should be made the nodal agency to represent and also to create awareness internationally. Also, it should be the CVC which should play a primary role regarding stolen assets recovery, co-operation which the anti-corruption bodies around the world.

The staff working in the CVC and the investigation agencies is doing a thankless job, because they have to do something that no other government servant does. They have to maintain a very high standard of integrity and code of conduct. Their service regulations are more rigorous than anybody else. Therefore, in my view, to insulate them from any kind of allurement, inducement and the personal sacrifices they make, there is a need to compensate them by providing them higher emoluments and other benefits. In CBI, it has been done in a small measure, but I will recommend that much more should be done.

These are my recommendations. I will finish here because time is very short. I would like to take questions. I thank the Chairman for giving me so much time.

Thank you
Question and Answer Session

Many incisive questions and observations were made in the interaction session. These included an observation that creating more new institutions would splinter and bloat the bureaucracy and create turf wars. A suggestion was also made to enlist the services of a large number of vigilance volunteers in the country who could become the eyes and ears of the CVC and help in the fight against corruption. It was also observed that there was need to change attitudes and mind sets. It was also emphasised during the discussion that before appointing people to high offices their antecedents should be thoroughly checked. A concern was also raised that the CVOs do not have power to investigate and also proper budget which proves to be a handicap. Another observation was made regarding creating a mechanism within the CVC for sifting information to ferret out valuable feedback and good suggestions.

Concluding Remarks by Chairman

The Chairman in his concluding remarks emphasised that CVC should focus on the big issues and the larger picture. Despite the feeling of gloom, he expressed that there were also many successes.

We have to adopt a systems approach and try to find solutions within the existing framework which would be far more effective than trying to overhaul the entire system. In India, an all-embracing, all powerful body (Lokpal), which is not accountable to anyone maybe a recipe for disaster. There was need for synergy and coordination between various institutions and existing organisations should be strengthened. There was a need for the CVC to push the envelope, create trust in its abilities and try to do more within the existing law and resources.
VALEDICTORY SESSION
COMPERES
Shri Omprakash, PFC
Shri Mukesh Meena, EIL
Welcome Speech by Shri Pradeep Kumar, Central Vigilance Commissioner

Justice P. Sathasivam, Hon’ble Chief Justice of India; Shri V. Narayanasamy, Hon’ble Minister of State in Prime Minister’s Office; my colleague Shri J.M. Garg, Vigilance Commissioner; former Central Vigilance Commissioners and Vigilance Commissioners; Shri K.D. Tripathi, Secretary, Central Vigilance Commission, Distinguished Guest; Colleagues from the Vigilance Fraternity; Ladies & Gentlemen.

It is a matter of great honour for all of us in the Central Vigilance Commission to have the presence of Justice Sathasivam, Hon’ble Chief Justice of India for the valedictory function commemorating the Golden Jubilee of the Central Vigilance Commission. Justice Sathasivam during his illustrious career is credited with several landmark judgements. I extend a hearty welcome to him.

It is also my great privilege to extend a very warm welcome to Shri Narayanasamy, the Hon’ble Minister of State for PMO, who has been kind enough to grace the occasion despite his busy schedule. He has been a pillar of support to the vigilance administration and has always encouraged us in our anti-corruption efforts.

Absence of corruption is one of the hallmarks of a society governed by the rule of law. A basic requirement for fighting corruption is the existence of sound regulatory and institutional frameworks. Thanks to the vision and foresight of our early leadership, we started putting in place such systems right at the time of independence when corruption started rearing its head. As one of the earliest institutions in the evolution of our democratic processes, the Central Vigilance Commission was set up on 11th February, 2014 to bring about transparency, accountability and probity in public life.

As part of the Golden Jubilee celebrations, we had organised a two-day seminar titled “Combating Corruption: Role of Accountability Institutions, Investigating Agencies, Civil Society & Media”. This function marks the conclusion of this seminar. The seminar was widely attended and the lively debates on the important aspects of anti-corruption were highly enriching. The eminent speakers made very valuable recommendations which we hope to carry forward. While a detailed report is being prepared I will highlight some of the important points made during the seminar.

During the inaugural function the Hon’ble President noted that corruption remains a stumbling block in national progress as it increases transaction costs for business and reduces the efficiency of public services. While crediting the CVC with several innovative initiatives
like leveraging technology and integrity pacts he called upon the CVC to enhance public awareness against corruption.

The Prime Minister, Dr. Singh reiterated that accountability institutions like the CVC act as aid to the governance process and emphasised the need for due care to ensure that the honest are not harassed for bona-fide mistakes.

To provide a credible deterrence against corruption it is necessary that the corrupt are promptly punished, however, high and mighty they may be. This is possible only if we have effective and independent institutions to uphold integrity. The presence of a strong judiciary in India has acted as a bulwark against corruption. We have several examples where the most powerful of public figures have been brought to justice. Judicial pronouncements have always strengthened institutions like the CVC. The CVC greatly values this support.

Independence and autonomy are an important ingredient of anti-corruption agencies which empowers them to act without fear or favour. As prescribed in Article 6 and 36 of the U.N. Convention Against Corruption, clarity of mandate, independent and objective appointments and functional and financial autonomy are some of the key requirements which ensure the independence and effectiveness of anti-corruption agencies. We are proud that the Central Vigilance Commission Act upholds these principles. The important take away of the session on “Ensuring Autonomy with Accountability of the Investigating Agencies” was that autonomy and accountability are not mutually exclusive and go hand in hand.

While our institutions have largely stood the test of time, there is a need to review our laws and practices to bring them in tune with the increasing complexity and changing dynamics of corruption. While the Lokpal has now become a reality after four decades, several other laws aimed at curbing corruption are under legislation. The Prevention of Corruption Act is also undergoing amendments to bring it in tune with the existing reality.

An important principle of rule of law is that administration of justice is not only accessible and fair but also efficient. Delays in the judicial process is a serious challenge in fighting corruption as courts are overburdened with cases and the trials take long years. As a result the guilty continue to enjoy the fruits of corruption while the innocent suffer. There are more than 6600 cases of corruption pertaining to CBI which are under trial. About 1500 of them are under trial for more than 10 years. The legal community needs to find a viable solution to this problem.

As corruption has become sophisticated and acquired international dimensions, investigating corruption calls for multidisciplinary skills. Investigating agencies therefore need to augment their capacity. There is a need for synchronising the efforts of all agencies involved in the fight against corruption whether in the States or the Centre.
Corporate corruption has always remained a challenge for law makers, investigators and prosecutors. Corporate corruption has come to stay because of the eagerness of companies to undermine competition through graft. The Finance Minister while chairing a session during the seminar emphasised the importance of self regulation and compliance in ensuring corporate ethics. It is hoped that the new Companies Act and other related legislations will promote good corporate governance through better disclosure, accountability and transparency in corporate affairs.

Public participation is the key to a successful anti-corruption strategy as it is difficult for the anti-corruption agencies with limited resources and mandate to combat corruption in its myriad dimensions and manifestations. Corruption can be curbed if the citizens are able to resist and desist, from payment of bribes. Civil society and media act as force multipliers in the fight against corruption by empowering and educating the citizens. We are seeing how the Right to Information combined with an active media and information technology is throwing open the opaque corridors of government to public gaze. However, there is a need for caution as engaging in vilification and public finger pointing will not serve the purpose. During the panel discussion on the role of media and civil society Justice Ray was of the view that media should remain within its ‘Lakshman Rekha’ and should not become the prosecutor, jury and the judge. There are several issues like paid news and cross-media ownership on which the media needs to ponder.

Anti-corruption efforts cannot be fully successful unless the challenge of political corruption is addressed. Electoral reforms are fundamental to this. Electoral funding and increasing criminalisation of politics are the two issues which were identified as of major concern.

As the Central Vigilance Commission crosses the milestone of 50 years, I feel assured with the kind of support and cooperation received from all our stakeholders. We shall always remain true to our vision of ensuring good governance by promoting the values of ethics and integrity in public affairs.

With these words, I once again welcome our distinguished guests.

Speech by Shri V. Narayanasamy, Hon’ble Minister of State for Personnel, Public Grievances & Pensions

Hon’ble Chief Justice of India, Shri Pradeep Kumar, Central Vigilance Commissioner; Shri J.M. Garg, Vigilance Commissioner; Dr. S.K. Sarkar, Secretary, Department of Personnel & Training; Shri K.D. Tripathi, Secretary, CVC; Former CVCs and Vigilance Commissioners; Officers of Central Vigilance Commission, Govt. of India, PSUs, Banks and other Institutions; Members of Print & Electronic Media; Ladies and Gentlemen.
At the outset, let me also extend my warm welcome to Hon’ble Chief Justice of India and other dignitaries present here. We have now come to the culmination of the Golden Jubilee celebrations of the Central Vigilance Commission. I have been informed that over the last two days, meaningful deliberations were held on the issues of vigilance and curbing corruption. Yesterday, we have immensely benefited from the insightful address of the President and the Prime Minister, as also other dignitaries. This augurs well for our institutional excellence.

Lack of good governance, wherever it is seen, will undermine economic development by generating considerable distortions and inefficiency. It will slow down economic growth and result in an uneven distribution of resources. It also lowers compliance with construction, environmental, or other regulations, reduces the quality of government services and infrastructure, and increases budgetary pressures on government. In the context of developing countries, there is always a possibility that lack of good governance might reduce the effectiveness of aid flows through the diversion of funds. It also discourages the flow of foreign investment to the country. In our country, we have taken several steps to put in place good systems of governance.

In terms of the institutional and legislative framework, India can boast of some of the best drafted acts and most extensive institutions. As far as the legal framework is concerned, the Prevention of Corruption Act, criminalises corruption by public servants in the form of bribery, extortion and abuse of office for private gains. There is also the Lokpal Act, Prevention of Money Laundering Act, etc. At the local level, some State governments have State laws that address specific aspects of corruption. The Right to Information Act represents one of the country’s most critical achievements in the fight against corruption in recent years.

India is credited with having made considerable progress in terms of economic reforms. Now more focus is given to administrative reforms and effective legal frameworks. The newly enacted Lokpal and Lokayuktas Act, to my mind, will be a potent weapon to take care of the process of institution building, as according to this Act, there will be a Lokpal at the Centre, and each State Government will be under obligation to appoint a Lokayukta. This gives us a tremendous opportunity to achieve some kind of uniformity and standardization amongst the Central and State Governments by reorienting the existing anti-corruption institutions, be it the State Vigilance Bureau, Lokayukta or any other body, and bringing more order to the existing complex web of anti-corruption bodies. An ideal situation would be where each State has a Lokayukta as per the provisions of the Act. Also, every State should have a State Vigilance Commission, on the lines of the Central Vigilance Commission, to look into cases of corruption against State Government officials.

An important related issue is about the staffing of the investigative agencies. The investigative
agencies should acquire multi-disciplinary skills and should be thoroughly conversant with the working of various offices/departments. They should draw officials from different wings of government. Incentives may be provided to personnel working in State Anti-corruption bodies so as to attract the right kind of talent.

It is also important that there should be a well defined code of ethics, and sufficient means of its enforcement. There is no single method for constructing an ethics infrastructure in public service. Rather, a combination of incentives and sanctions is needed to encourage professional standards of conduct. They, when combined with other relevant laws, promote openness and transparency by establishing processes that support the application of the latter. Some steps are already being taken to include psychological assessment at the recruitment stage, and inculcation of ethical values at the time of training to ensure that people with the right values are selected for public service. However, there is a need to periodically reinforce and reaffirm these values amongst the employees. We are effectively addressing all these issues for the welfare of citizens.

We have taken steps to simplify rules and procedures to reduce the degree of discretion, bring in greater transparency and empowerment of public, to introduce more IT solutions and lay due emphasis on effective punishment. Social monitoring through empowered autonomous and credible structures will have to be established even for the highest of the public offices. Right to Information has to be the starting point for some of these changes. Anti-corruption tools such as RTI, Social Audit, Citizens’ Charters and use of the technology are effective methods to check corruption, provided mass awareness is generated in the country.

Along with having a stringent and effective anti-corruption framework, we are in the process of creating a culture of trust in the government, where government employees are also assured that they will not be punished for a bonafide mistake, a decision turned out to be wrong, taken with a good intention so as to ensure that the crusade against corruption does not kill the initiative of the honest, hardworking and sincere government servant.

I sincerely hope that the ideas exchanged in this seminar as a part of the Golden Jubilee Celebration of the Central Vigilance Commission will be the starting point for some major policy initiatives to not only combat corruption, but to promote good governance. I also extend my best wishes and thanks to all those who are present here today, and to all the people who have participated in these deliberations over the last two days.

I want to reaffirm that the Government is committed to not only providing the right kind of institutional and legal framework, but also the physical infrastructure and manpower to enforce the initiatives that have emerged. The Golden Jubilee of the Central Vigilance Commission is
an opportunity not only to celebrate the achievements, but also to take stock of the present and define a path for the future. I am optimistic that the Central Vigilance Commission will play a pivotal role in our scheme of things for effective governance.

Thank you

Jai Hind

**Valedictory speech by Justice P Sathasivam, Chief Justice of India**

I extend my warm felicitations to all the dignitaries present in this august gathering. I am delighted to have the opportunity to be a part of the Golden Jubilee Celebrations of our country’s premier institution, namely the Central Vigilance Commission, which has been instrumental in combating corruption for decades. I wish to see this day as not to commemorate the mere existence of Central Vigilance Commission but to commemorate those unnamed and unsung heroes who in the past have fought courageously against social ills and those who have made it a mission of their lives to fight the evils of corruption. On this memorable occasion, I congratulate the members and officers of the Central Vigilance Commission for their dynamic support in combating corruption in the largest democracy of the world.

Corruption is the biggest threat to democracy. In a healthy democracy, institutions must be independent and strong to help facilitate good governance, accountability and transparency. However, six decades of independence in our country have witnessed a steep rise in the magnitude and complexity of corruption in public life. Values in public life and perspective of these values have undergone tremendous change. It seems that the consequences of corruption are well known, perhaps not well realised. It is because we have either given up hope of making our country less corrupt or we have come to terms with corruption, accepting it as a facet of life. Both these attitudes are hazardous for working of our democracy. The Central Vigilance Commission being the apex integrity institution entrusted with the task of overseeing vigilance administration and implementing government policies against corruption has greater responsibility in addressing the issue. Undoubtedly, the Commission has always been committed to mitigate corruption at all levels by stressing on various preventive and punitive measures.

Ladies and Gentlemen, the Commission’s role as a watchdog became more crucial after the Supreme Court judgment in the Vineet Narain case popularly known as Jain Hawala Case. After this judgment, with the enactment of Central Vigilance Commission Act 2003, the Commission acquired statutory authority, namely the superintendence over functioning of the CBI in so far as cases handled by it under the Prevention of Corruption Act. Recognising the eminence of the Commission in dispensing the functions enumerated in the Act, the Supreme
Court has on more than one occasion, reposed faith in the Commission and has entrusted highly sensitive cases to it and to assist the Court in monitoring them. Thus, it is obligatory on every officer of the Commission to function in a manner to ensure, fair, impartial and unbiased functioning of the agency and ultimately uphold and preserve the trust of the people in the institution of democracy.

I have learnt that the Commission has undertaken many new initiatives for combating and preventing corruption. Leveraging of technology to combat corruption is one such significant initiative. Central Vigilance Commission has been continuously emphasising upon Public Sector undertakings and other organisations to adopt the latest technological initiatives like e-tendering, e-procurement, e-payment etc. Further, the Commission has also laid down guidelines for promoting strong internal control mechanism for transparency, fair play, objectivity in matters related to public administration. With the advent of the Lokpal and Lokayukta Act 2013, I foresee greater co-operation and interaction between these institutions, with their strength coming together to make good governance a reality in this country. Further, delays in receiving sanction for prosecution of public officials will not be an issue anymore in view of the provisions in Lokpal Act.

Another significant, yet ignored factor, is that in order to improve vigilance administration, it is necessary to sensitise the citizens of this country about corruption. If we want to make things happen, we must first believe that it can happen. As said by Russell, every opinion becomes respectable if you hold it for a sufficiently long time. Today, the citizens of this country view corruption as inevitable, but as a French thinker remarked, the inevitable becomes intolerable the moment it is perceived to be no more inevitable. Spreading awareness about the ill effects of corruption and the ways of fighting it is the most effective strategy to reduce corruption. Awareness leads to empowerment. India, in the recent past, has been more vocal than ever before in denouncing the act of corruption.

The Central Vigilance Commission must work more vigorously for safeguarding the trust of the people. Nevertheless, the problem of corruption is pervasive and the reach of vigilance institutions is limited. While anti-corruption agencies are striving to address the widespread problem of corruption, their task cannot be truly accomplished without active participation of all stakeholders. It must be realised that corruption in our country not only threatens the concept of constitutional governance but also degrades the institution of democracy and the rule of law. Our Constitution does not grant liberty to anyone to be corrupt. The efficacy of every single fundamental right, as originally envisaged, are a product of judicial activism and depends on immunity from corruption in public and political life. The Constitution of India in envisaging a democratic culture, does not permit the exploitation of public resources, power, position and pre-eminence for private gains. The Commission has been stressing on
predictive, pro-active and participative vigilance measures in addition to building of public awareness to fight corruption. The Vigilance Awareness Week which is being observed every year at the instance of CVC with different themes and focus has been making a good impact amongst all stake holders including civil society.

The role of media in combating corruption is equally significant. Today, we are in a transitional phase where old values are crumbling and new values are being formed. Media also plays an extremely vital role in our lives. It is like a mirror to the society which reflects contemporary thoughts and action and shapes people’s perception. It yields enormous power to affect their opinion. In such a backdrop, the media owes a huge responsibility in disseminating true and fair information about scams or scandals. Neither the truth should be suppressed nor untruth exaggerated. An unbiased, ethical and fair publication can result into virtual cycle of transparent policy making, clean government and faster economic growth. Besides, with enactments like the Right to Information Act, 2005, public awareness has grown. It has also necessitated greater transparency and accountability in public life which are positive signs of a healthy democracy.

I want to say something about the delay in disposal of cases. Despite, timely amendments and strict interpretation rendered by Courts to the provisions of the Prevention of Corruption Act, corruption tends to be like a cancer in our society. One of the primary factors is the delay caused in disposal of corruption cases. Delay in trial allows the guilty to get away as they are not awarded the punishment which they deserve whereas it is double jeopardy for the innocent persons to suffer frivolous, malicious cases.

I am going to cite one illustration of V.S. Achutanandan Vs R.Balakrishna Pillai & others. This case is from Kerala, and has been reported in all journals of the Supreme Court, 2011 (Vol.3) Supreme Court cases 370. I am the author of the judgment. I had the occasion to highlight the grim reality of corruption cases involving public servants which normally take longer time to reach its finality. In that case, the contract in question was of the year 1982 and the State Government initiated prosecution only in 1991, after 9 years. The trial prolonged for nearly 9 years and the Special Court passed the order convicting the accused only in 1999. The appeal was decided by the High Court in 2003 and finally by Supreme Court in 2011. In that case, it was observed, and I quote: “Though the issue was handled by a Special Court constituted for the sole purpose of finding out the truth or otherwise of the prosecution case, the fact remains it had taken nearly 2 decades, in 2011, to reach its finality. We are of the view that when a matter of this nature is entrusted to a Special Court or a Regular Court, it is proper on the part of the Court concerned to give priority to the same and conclude trial within a reasonable time. The High Court having overall control and supervisory jurisdiction under Article 227 of the Constitution of India, is expected to monitor and even call for quarterly
reports from the Court concerned for speedy disposal. In as much as the accused is entitled to speedy justice, it is the duty of all incharge of dispensation of justice to see that issue reaches its end as early as possible.” Unquote.

Stopping for a moment, yesterday, a senior most judge of Supreme Court from Japan alongwith her colleague visited the Supreme Court and she came and met me in my chamber. When we exchanged notes on the judicial system, she informed me that in Japan there is a legislation that every case, whether civil or criminal or constitutional matter, should be disposed of within 2 years. Unfortunately, here we are not having that system, but in certain cases, for example, cases against women, rape, after filing of chargsheet, the Court is expected to dispose off within 6 months. Unfortunately, the Courts are not in a position to complete the same within the time. So this one illustration, this case and the quotation just now I read may be a message to all the Courts dealing with these kind of cases. That is the reason Government constitutes Special Courts for these type of cases. And I request, through this august gathering and through our friends in the media, the courts dealing with such corruption matters should make all endeavours for early completion of the trial.

Coming to our subject, the trend is continuing even today, that delay is continuing even today. Our Chief Commissioner has furnished certain details about the pending matters. As Head of the judiciary it is my duty to inform, as on December 31, 2013 over 6500 cases are under trial under Prevention of Corruption Act, of which around 3500 cases are more than five years old. The Chief Commissioner has reported ten year old cases, I am giving five year old cases.

As a matter of fact, when I assumed office as Chief Justice of India in July, the first letter I wrote to all the Chief Justices was to identify the cases arising from Prevention of Corruption Act, cases pertaining to women and give them priority not only in the High Court but also in all Special Courts, wherever it is pending. I asked them to send periodical compliance reports. For example, now January is over, now they have to send how many cases have been listed in the High Court and subordinate courts under this caption and they have to inform how many have been disposed of. If there is any problem they are free to inform, I am ready to take up the matter with the Government. From the moment I assumed office, I have been requesting the Central and State Governments to set up more Special Courts for speedy disposal of such cases and Government is equally interested in this issue. Besides, I have directed the Registry of the Supreme Court to list such matters i.e. cases arising under Prevention of Corruption Act at the top of the list for speedy disposal.

I am also very glad that the CVC has been actively engaging with various international anti-corruption agencies/organisations as a measure of international cooperation. Creating knowledge management system for International Association of Anti-Corruption Authorities
(IAACA) has been one of the collaborative initiatives which is laudable. As far as Golden Jubilee is concerned, the CVC has drawn a detailed plan for not only celebrations but also for meaningful and purposeful deliberations. A commemorative postal stamp to mark the Golden Jubilee of CVC has been released. The CVC has also come out with Coffee Table Book, titled ‘The Untiring Eye’. I am also pleased to release the documentary just now specially made for this occasion. The theme of the Seminar “Combating corruption: Role of Accountability Institutions, Investigating Agencies, Civil Society and Media” arranged as a part of celebrations is very timely and of interest. Needless to mention, a number of constructive ideas for action have emerged out of these deliberations and I am sure that the CVC would be making use of these ideas taking it forward for implementation.

These changes are not difficult to bring in, it is the will which is missing. The perils of democracy are the result of loopholes within it. To plug them, we need to fight enduringly until it is completely eradicated. As slavery was once a way of life and has now become obsolete and incomprehensible, so the practice of bribery in the central form of exchange of payment for official action will become obsolete.

Before parting, I would like to deal with the comments made by the Hon’ble Law Minister regarding complaints against judges. I read it in the newspaper. I have the highest regard for our Hon’ble Law Minister. Unfortunately he was not given accurate and proper information about the role of the judges and how the judiciary functions. The mechanism to deal with complaints against sitting judges of the Supreme Court and High Courts is provided in the in-house procedure. Complaints received by the Chief Justice of India are examined and ultimately if it is found that deeper probe is required into the allegations contained, a three member committee is constituted for making a fact finding inquiry. If the committee reports that the misconduct disclosed is serious as to call for initiation of proceedings for removal of the concerned judge, the Chief Justice of India may either (i) advise the concerned judge to resign or seek voluntary retirement, or (ii) withdraw judicial work and the government may be intimated that this has been done since allegations are so serious as to warrant initiation of proceedings for removal of the concerned judge in terms of the constitutional provisions. A copy of the report is furnished to the concerned judge.

At present, Ladies and Gentleman, for information, in reply to the Minister’s statement, I may state that making, at present, no request to the government or any of its agencies is pending in the Supreme Court. So far as this is about judges of the High Court and Supreme Court, so far as the judges of the sub-ordinate courts are concerned, according to our constitutional scheme, the control over district courts and courts sub-ordinate thereto in all respects vest in the High Court. Different High Courts have over the years, evolved procedures for exercising
the control over the subordinate courts. Judicial officers are also governed by Service Rules which also provide procedures with regard to disciplinary proceedings, etc.

Not only this, collectively, the issue has also been addressed at various intervals at the higher levels. In the Chief Justices’ conference held in 2009 in this very same hall, the issue pertaining to strengthening of vigilance cells in the High Courts was discussed and it was resolved that the vigilance cells will be under direct control of the Chief Justices of the High Court and all complaints in the first instance, will be placed before the Chief Justice of the High Court, who will refer the same to the Vigilance Officer of that Court. Normally, the Vigilance Officer is a senior District Judge. The Vigilance Officer upon inquiry will submit a report to the Chief Justice in that regard. In case, an inquiry is to be proceeded with, for the purpose of imposing a minor or major penalty, the complaint will be referred to a Committee of Hon’ble Judges. A minimum of three Judges Committee is to be nominated by the Chief Justice of the High Court which may also include the Hon’ble Judge incharge of the place where the delinquent officer is discharging his function, i.e. the Administrative Judge or Portfolio Judge. The cases relating to major penalties only such as compulsory retirement, dismissal or removal are to be placed before the full court of the High Court. After approval by the High Court, then it will be forwarded to the Government for passing orders. Complaints and enquiries are to be disposed of as early as possible but not later than one year.

The reason why I am mentioning this is because as far as the judiciary is concerned, we are answerable to the public and Constitution. We will definitely take note of whatever is recommended and by virtue of the powers conferred under the Constitution, have a separate mechanism to address it. That is why I wanted to highlight these provisions and our scheme.

I once again thank you for giving me the pleasure of being a part of the Golden Jubilee Celebrations of the Central Vigilance Commission.

Thank you very much.

**Vote of thanks - Shri J M Garg, Vigilance Commissioner**

Hon’ble Chief Justice of India, Hon’ble Minister of State in PMO, Personnel, Public Grievances & Pensions, Central Vigilance Commissioner, Secretary, Department of Personnel & Training, Former Central Vigilance Commissioners & Vigilance Commissioners, Senior Officers/CMDs of Central Public Sector Undertakings/Banks etc., Friends from Print & Electronic Media, Ladies & Gentlemen

I deem it a great honour and privilege to propose a vote of thanks on the occasion of the Valedictory Session of the Golden Jubilee Celebrations of the Commission. On behalf of
Central Vigilance Commission, I am extremely grateful to the Hon’ble Chief Justice of India for being with us on this occasion. Your gracious presence, Sir, in today’s function is a source of great encouragement for all of us. It reflects in great measure the Indian judiciary’s deep commitment to strengthen the role of accountability institutions, investigating agencies, civil society and media in combating corruption. I also convey my heartfelt thanks to the Hon’ble Chief Justice of India for his stewardship, vision and commitment. Sir, your valuable suggestions, guidance and encouragement will help us to come out with a National Strategy to fight against corruption. The judiciary has always been in the forefront and a guiding force to combat corruption.

We are extremely grateful to the Hon’ble Minister of State in PMO and Personnel, Public Grievances & Pensions for his esteemed presence and words of encouragement. His able guidance in the matter of strengthening the role of accountability institutions and investigating agencies for tackling corruption in India has always been a source of inspiration to us. I thank him for his keen interest, commitment and continued support.

I convey my thanks to the Secretary, Department of Personnel & Training, Dr. SK Sarkar for his unstinted and tireless support.

I would like to thank former CVCs and VCs for gracing the occasion. I would also like to thank all senior officers of the Government of India, delegates from CPSUs/Banks and all other organisations and our friends from the print and electronic media for their presence and participation. I thank you all for standing by us today in our endeavour of combating corruption under the banner of CVC.

I would like to thank Doordarshan for producing a documentary on the Commission. I would also like to thank the members of the media for their efforts in covering the event and Doordarshan for the coverage of the inaugural as well as valedictory function to a wider cross section of citizens across the country.

Finally, I would like to place on record my deep sense of appreciation for the manner in which the officials of Commission, Chief Vigilance Officers of various organisations and their team of officers who have put in efforts to ensure that this occasion becomes a memorable success. I thank ITDC for making this event a success. I also thank the staff of Vigyan Bhawan for assisting the Commission in organising the Seminar and making excellent arrangements.

I thank you all for your attendance.
COMMITTEES
COMMITTEES

The Central Vigilance Commission constituted the following Committees of officers with respective responsibilities entrusted for organising the Golden Jubilee Celebrations:

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of the Committee</th>
<th>Name of the CVOs/Officers</th>
<th>Responsibilities allocated to the Committee</th>
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<tbody>
<tr>
<td>1</td>
<td>Ceremony Committee</td>
<td>Naveen Prakash, IAS(WB:1987) Steel Authority of India Ltd.</td>
<td>i. Booking of venue (including stage, seating plan etc.)</td>
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<td></td>
<td></td>
<td>Ram Bilash Meena, IRS (IT:1990) India Tourism Development Corp. Ltd.</td>
<td>ii. Arrangements regarding matters relating to Signage, posters etc.</td>
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<tr>
<td></td>
<td></td>
<td>Prabhat, IRPS(1993) Indian Renewable Energy Development Agency Ltd.</td>
<td>iii. Dias Plan</td>
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<td>v. Arrangements for Inaugural and Valediction Ceremony</td>
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<td>vi. Arrangement for release of Coffee Table Book</td>
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<td>vii. Arrangement for release of Commemorative Postal Stamp</td>
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<td>viii. Arrangements for flower/bouquets</td>
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<td>ix. IT facilities during the entire programme (including seminars)</td>
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<td>x. Audio/Visual arrangements</td>
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<td>xi. Arrangements for Compere</td>
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<td>xii. All matters regarding High tea/Lunch etc.</td>
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<td></td>
<td>Parvez Hayat, IPS(JH:1984) Power Grid Corp. of India</td>
<td>ii. Arrangement of protocol officers and Providing protocol to the dignitaries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rajesh Ranjan, IPS(BH:1984) Gas Authority of India Ltd.</td>
<td>iii. All security matters (including permissions) at the venue and en-route</td>
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<td></td>
<td></td>
<td>Gulab Chand Rai, ITS (1993) Director Central Vigilance Commission</td>
<td>iv. Liaison with Delhi Police/ President/PM security Sectt. etc.</td>
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<td></td>
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<td>v. Manning of Entrance (VVIP Gate)</td>
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<td></td>
<td>vi. Parking (VVIP Gate)</td>
</tr>
</tbody>
</table>
3 Logistics Committee

Indian Oil Corporation
(Tenure upto 01.01.2014)
Sanjeeva Kumar, AS(AM:1986)
Oil and Natural Gas Corp. Ltd.
Amit Mohan Prasad,
IAS(UP:1989)
Oil India Ltd.
R.N. Nayak,
Office on Special Duty
Central Vigilance Commission

i. Finalisation of the invitees

ii. Arrangement of Secretarial assistance

iii. Photography arrangements including group photographs.

iv. Accommodation for guests

v. Booking of tickets (if required)

vi. Illumination of the Satarkata Bhawan Premises.

vii. Arrangement for "At Home" and "In-house function".

4 Contents Committee

Subhash Chandra, IAS(KN:1986)
Power Finance Corporation Ltd.
Smt. Upma Srivastava,
IAS(SK:1988)
Airports Authority of India
Smt. Manisha Saxena,
IAS(UT:1996)
Engineering Projects India Ltd.
Prabhat Kumar, IRS(C&CE:1994)
Pawan Hans Helicopters Ltd.
J. Vinod Kumar
Officer on Special Duty
Central Vigilance Commission

i. Panelists and Moderators for the seminar

ii. Preparation of Keynote address & other speeches (including President, Vice President, Prime Minister, Leader of Opposition, MOS(PP) & CVC

iii. Write up on Central Vigilance Commission Golden Jubilee celebrations

iv. Development of background papers for seminar

v. Decision on Sub themes.

vi. Finalisation of each session

vii. Preparation of Minutes of Sessions

5 Printing & Gifts Committee

Arvind Kadyan, IDAS(1987)
Bharat Heavy Electricals Ltd.
Smt. Kavita Prasad,
IA&AS (1994)
Central Cottage Industries Corpn.
Shri Arun Kumar IOFS (1995)
Director
Central Vigilance Commission

i. All Designing and Printing work (including invitation Cards, brochures, Banners, etc.).

ii. Designing and printing of Identity badges

iii. Deciding and purchase of gifts/mementos

iv. Folders/Note Books/ other documents.
<table>
<thead>
<tr>
<th>Media Committee</th>
<th>All matters relating to Media matters including:</th>
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<tbody>
<tr>
<td>Kuldeep Kumar, IPS(MT:1985) State Trading Corporation of India Ltd.</td>
<td>ii. Development of all communications to media (Press release etc.)</td>
</tr>
<tr>
<td>R.P. Tripathi, IDSE (1983) Director, Central Vigilance Commission</td>
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</tbody>
</table>
The Central Vigilance Commission acknowledges the support and cooperation of all organizations and agencies that were engaged in the organization of the celebrations to commemorate the Golden Jubilee of the CVC. The events planned could not have been held without the willing support and cooperation of several organizations which worked in close cooperation with the CVC in the meticulous planning and execution of the programme.

The Commission is indeed extremely gratified that the Hon’ble President of India and the Prime Minister of India found time from their busy schedules to participate in the inaugural session and that the Minister for Communications and Law & Justice, the Leader of the Opposition in the Lok Sabha and the Minister of State in PMO, Personnel, Public Grievances & Pensions were also present on the occasion. The Commission also gratefully acknowledges the presence and contribution of all the Chairpersons and Speakers at the different Plenary and Breakout Sessions that were organized over the two days of the seminar in delineating various themes and sharing their experience and perspectives to generate an invigorating discussion in all sessions. The CVC is grateful to all the organizations and their faculty who responded to its request to contribute material for the background papers for the seminar. The Commission is also privileged to have had the esteemed presence of Hon’ble Chief Justice of India who presided over the valedictory function.

Several organizations and agencies extended support in making the seminar organized to mark the event successful. These include several PSUs which were associated in the different committees, the staff and management of the Vigyan Bhawan and ITDC. The Commission acknowledges their enthusiastic and unstinted support in making the celebrations successful. The support of Doordarshan for producing a documentary film on the CVC and for covering the event extensively is also appreciated. The assistance of the Department of Post in releasing a special commemorative stamp on the occasion is also gratefully acknowledged.
DISCLAIMER

The seminar was an effort in generating views on several aspects of corruption related good governance/reform measures through free and frank exchange of views. The views expressed during the course of discussions in the seminar are those of the speakers.

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