



The Public Newsense

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From the Executive Director

Dear Friends,

I am pleased to present the newsletter for the first quarter of year 2016. This quarter saw the residents of Chennai and its neighbouring areas in Kancheepuram, Tiruvallur and Cuddalore recover from the devastation caused by the floods of November - December 2015. The process was especially tough for low income communities, who not only lost household and trade items, but also several days of livelihood. Along with other researchers and activists in the city, CAG conducted a survey of the extent of damage and the losses suffered by the people and shared the findings with the Government of Tamil Nadu (GoTN). The key demands were for the government to undertake a proper assessment of losses and damages, and to decide on a compensation commensurate with the losses.

The CAG team put together a map of the natural ecology, especially water bodies, of Chennai to highlight encroachments and their contribution to the disaster. We commemorated World Consumer Rights Day by organising a seminar on Unfair Trade Practices in association with the Department of Civil Supplies and

Consumer Protection, GoTN. We also organised the South India workshop on the Environmental Impact Assessment (EIA) process, which brought together environmental groups and civil service organisations from all over south India. The work on advocating for a strong Road Transport and Safety Bill (RTSB) saw us making representations to the elected and unelected representatives of the Governments of Tamil Nadu, Karnataka and Kerala, to explain the framework proposed for the safety of all road users in India, including vulnerable road users and its likely impact in reducing the fatalities on Indian roads. We also launched a sanitation project at the Madhavaram Truck Terminal (MTT) which aims to address issues of solid waste management, sanitation, and personal health and hygiene through improvements in infrastructure, services and behaviour change.

This issue of the CAG newsletter covers our recent initiatives and milestones, as we continue on this journey of improving governance and encouraging citizens participation in key public processes.

Sincerely,
Om Prakash Singh

Relief, rehabilitation and restoration efforts by CAG

Continuous and heavy rains between November 9 and December 1, 2015 resulted in floods and damages in several cities and villages in Cuddalore, Kanchipuram and Thiruvallur districts. Chennai city was flooded at least three times from the rains and the consequent opening of the Chembarambakkam tank on December

1, 2015.

Relief efforts

Between December 6 and 12, 2015, the CAG team was involved in relief efforts, primarily focused on sourcing relief materials and sending them to small NGOs and volunteers who had taken on the task of last-mile delivery to affected people. The

main challenge for many who were distributing relief materials was the lack of vehicles to move the materials from the collection centres within the city to the distribution points that were closer to the flood-affected people. One business group in the city provided us critical logistics support in the form of a small truck and a car. We collected water, biscuits, blankets, bed sheets, mats, candles, clothes, sanitary napkins, diapers, mosquito repellents, floor cleaners, rice, lentils, sugar and salt. We collected these from individuals as well as relief centres that had cropped up in schools and housing complexes across the city. On December 9, the business organisation also sent us a truck with water, bread and candles from Bangalore to distribute in Chennai. We provided these to our two CBO partners, Arunodhya and Real Charitable Trust; a relief centre in Tiruvottiyur managed by volunteers; many families in Vettivankani; two villages in Semmencherry; and several individuals.

Post-floods rehabilitation actions

During our relief efforts we were faced with the difficult reality that individuals and families who had lost their possessions would need support when they returned to their homes. These were losses of food items, mats, blankets, bedsheets, utensils, and cook stoves. We received donations that we used to purchase household, food and stationery materials that we could distribute to such families through other NGOs. We also collaborated with Grofers, an online retail service, that let people pay for household kits that contained household goods for families. In collaboration with our community partners, we delivered them to 132 families, particularly those belonging to migrant workers and

Irullar tribal communities. In partnership with two NGOs we also purchased school kits, consisting of school uniforms, shoes, bags, books and stationery, for children in Chennai and Cuddalore.

Restorative justice and public accountability

Even as relief and rehabilitation efforts were underway in different parts of the city, those engaged in these efforts realised that the issue of restoration was critical. In December, we worked with a group of researchers and activists to undertake a sample survey of losses and damages sustained by various sections of the city's population. The purpose of the survey was to identify:

- 1) The specific contexts of the flooding (day, timing, magnitude); and whether the city was prepared to handle disaster at the micro-level
- 2) The extent and scope of things lost as well as the value of what was lost.

The survey was to thus provide a sample picture of devastation and loss, and on that basis seek from the government of Tamil Nadu:

- 1) A more comprehensive survey along similar lines to assess damages in other communities in flood-affected areas of Tamil Nadu;
- 2) An enhancement of relief and reparations to the afflicted;
- 3) Long term support that would enable individuals and communities to restart trades and small business and make up for the loss of working hours and days.

The group released the report in a press conference on January 13, 2016 and also sent it to the Honorable Chief Minister's office. You can read the full report on CAG's website.

Staying safe online

So much of our lives now take place online. We work online. We shop online. We share photographs and other personal details online. The digital world has opened an endless array of possibilities. But this also means that all the information we share online is susceptible to malicious misuse. It is important to protect ourselves from the risks that abound the information and communication technologies (ICT) we use. Many of us are not aware of the risks, how to recognise these threats and what steps we can take to protect ourselves, our friends and families. This is why CAG and FEDCOT in association with Consumer VOICE and Google, conducted workshops on internet security in Pondicherry and Chennai in March.

We started with the basics of keeping devices, such as computers, mobile phones and tablets, secure.



A session in progress

One should always keep the operating systems updated to keep security holes plugged regularly. Sometimes the updates are automatic, most other times we need to manually update them. One should also make it harder for third parties to access the devices by using user accounts and passwords. However, one should also ensure that the devices are physically protected since if the device is lost

then it is not difficult to access the hard disk.

Emails are one of the oldest forms of communications on the Internet and also very popular. It is essential to know that emails are not encrypted by default. One of the basic security measures is to create strong passwords, enabling a two-step verification processes, and updating your information for recovery options. Emails can also be tapped, therefore making the use of secure networks crucial. It is also important to not open unsolicited emails and not download unknown attachments; these could contain viruses that attack your system and make it vulnerable to information theft. There are also several email scams and hoaxes where third parties pretend to be your friends or relatives who lost their belongings when travelling and need you to transfer funds, or that you have won a lottery or competition that requires you to transfer funds in order to receive the prize. Such emails ask for personal information such as passwords, bank details and even identity.

Visiting websites is also a form of communication and it is crucial that we consider using safe and secure websites. By default, websites that have "http" in their web address are where the text is plain or unencrypted, and so it is easy for third parties to hack into your communication. For this reason, it is important to use browsers that are more secure, such as Firefox. It is also important that we use secure websites, especially for shopping or online banking transactions. Such websites usually have "https" in their web address. It is also important to be alert for malwares that direct users to morphed websites with the objective of stealing user data and information.

These were only some of the topics we touched upon during the workshop, and participants were introduced to some simple ways to stay safe and secure while using ICT tools. The basic principles are to know that no device or network is completely secure and that a good understanding of how technology works will help keep you secure when using the Internet and digital technology.

The path to strong road safety regulation

In 2014, after the unfortunate death of Union Cabinet Minister Gopinath Munde in a traffic accident, the Government of India drafted a comprehensive legislation - the Road Transport and Safety Bill (RTSB), 2014. The Bill, drawing from best practices on road safety globally, talks of creating a unified licensing and registration system and a national authority for road safety and transport, and a greater use of technology to enforce road legislation.

The draft was opened for public comment and based on various inputs from stakeholders, the Bill was revised and a 2015 version was published. The changes largely consisted of reducing the penalties on violators; and expanding the powers of the National Road Safety Authority to include framing rules and regulations on related aspects of transport and road safety such as standards for fuel, emissions, and road infrastructure.

States oppose RTSB

However, some state governments, particularly those of the southern states, continue to have several reservations about the Bill. Karnataka, Tamil Nadu, and Kerala say that while they have no qualms about the road safety aspects of the Bill, it is the road transport part that they are not happy with. The concerns expressed by the states are:

Revenue related: States are concerned over what they see as revenue being appropriated by the

central government. While the Ministry has issued a clarification, the state governments opine that their concerns about the modus operandi of revenue coming back to the state remain unaddressed;

Legislative power: The state governments are concerned that the Bill will cause them to lose their autonomy. There are also concerns that a central authority would mean that state employees would be replaced by central government employees at RTOs, taking away currently enjoyed local powers. Similar fears surround the usage of technology, which though will streamline the licencing systems, may also give a central authority far-reaching powers over the state authority;

Livelihood issues: Several stakeholders, such as small mechanics and drivers, have expressed concerns that the Bill contains clauses that could affect their livelihoods; for instance the clause requiring vehicles to be serviced only at authorised centres.

Penalties: While the state governments are not averse to stringent penalties, they are concerned that the penalties, such as those regarding imprisonment of persons causing the death of another in a road accident, may not be in sync with the provisions laid down in the Indian Penal Code.

Political impasse

Politically, it does not seem likely that the southern states will support the Bill unless these concerns are

addressed. In Tamil Nadu, the Bill has not been championed by any of the political parties. Moreover, the Bill has been opposed by the automobile industry, an important economical and political player.

In Kerala, the ruling coalition - United Democratic Front (UDF) - led by the Indian National Congress (INC) and the Indian Union Muslim League (IUML) - has shown mixed support for the RTSB with a few MPs signing letters of support. The opposition - the Left Democratic Front (LDF), led by the Communist Party of India (CPI) and Communist Party of India - Marxist (CPI-M) - is strongly against the RTSB. They have held country-wide strikes via their affiliated labour unions. However, with the UDF having a slim majority they are unlikely to go out on a limb on any issue, particularly since RTSB is seen in Kerala as anti-labour, anti-small enterprise, and as a move towards privatisation of public transport.

There is no major opposition to the Bill in Karnataka as groups that have opposed it in other states, such as the Communist parties and labour unions, are not strong in the state. One exception is the automotive industry as Karnataka, like Tamil Nadu, is also an important hub of automobile production. However, there is no particular support for the Bill either; it seems that most other stakeholders are fairly indifferent to the issue.

A different approach

In January 2016, the Government of India constituted a Extraordinary Group of Ministers (EGOM) headed by the Minister of Transport from Rajasthan. The EGOM focuses on various road safety aspects which are covered under the Bill but does not refer to the Bill itself. It is important, however, that the EGOM includes the Bill on its agenda and issues clarifications to the states so as to gain the state governments' support for the Bill.

Antibiotics off the menu

The discovery of antibiotics in 1928 revolutionised medical care and can be credited with saving millions of lives across the world. Bacteria and related pathogens however, are constantly evolving to resist the attack of these drugs. This age old problem has become manifold recently for two main reasons. The first is that antibiotics are so cheap and effective that they have been significantly overused, thus exposing the microbes to a greater number and greater concentration of antimicrobial products. This significantly raises the chances of these organisms developing into a resistant strain. This ongoing and expanding resistance in turn demands new medication to be discovered at a considerable pace. This supply of new drugs though is drying up, leaving us in a precarious position where even minor cuts and infections could prove fatal.

It is no longer mere prophecy but an imminent threat to humanity that hard won medical battles from some years ago will be lost again. The true burden of spreading antibiotic resistance will be felt the world over but the brunt of it will be borne by the developing and populous nations such as India.

Current livestock farming methods are in large measure contributing to this scenario. In response to an ever increasing global demand for meat, livestock farmers are routinely feeding their animals a low dose antibiotic diet, to boost the animal's weight gain and increase the farmer's margins. Farms are therefore becoming breeding grounds of antibiotic resistant strains of bacteria. These then will travel to people via air, soil, water, manure and through

contaminated farm products.

As public awareness of these superbugs grows, consumer movements have been strong advocates for tighter regulations and self regulation of global restaurant chains to take the lead in tackling this issue. The global theme for this year's World Consumer Rights Day was therefore 'Antibiotics off the menu'.

CAG, in association with Consumers International, was part of this initiative demanding international fast food chains to define a global, time-bound action plan to phase out the routine use of antibiotics used in human medicine across all meat and poultry supply chains. We wrote to KFC, Mc Donalds and Subway, of whom only Subway



responded. They outlined a timed action plan for transitioning into antibiotic free meat in the US, a position they are committed to globally. CAG also distributed flyers on the subject, to educate the consumer on antibiotic resistance and the need for urgent global action.

Improving sanitation infrastructure and services in a transport hub

In the summer of 2015, CAG had undertaken a study of sanitation in the Madhavaram area. The rapid assessment highlighted sanitation issues in the Madhavaram Truck Terminal, difficulties with procurement of potable water, open defecation arising from poor access to public toilets, inadequate waste management mechanisms and the resulting health related issues such as malaria, dengue, dysentery and respiratory conditions. We also found that truck drivers, being a transitory group, did not feel the need to invest time or energy in mobilising government action to better their surroundings.

In response to these unsatisfactory conditions, we have partnered with Real Charitable Trust (RCT) in February 2016 to work with a range of local stakeholders to improve sanitation infrastructure and services. RCT is a Chennai based NGO working in diverse fields such as HIV awareness, involved with a wide array of community development programmes.

This project has an ambitious long-term vision of revitalising the Madhavaram Truck Terminal by working with city government officials, sanitation workers, truck drivers and owners, vendors, small businesses working within the terminal to improve infrastructure and services related to drinking water, toilets, bathing, washing and waste management.

The project was formally inaugurated in March 2016. The President and Secretary of the Madhavaram Truck Terminal Complex Welfare Association oversaw the planting of a tree and flagging off of the waste cart as part of the celebrations. A puppet show educated the gathered stakeholders on the importance of waste segregation and its



Flagging off of the waste cart



Promoting stakeholder participation

ramifications on our health. In order to institute a zero waste system, we have planned daily door-to-door collection of segregated waste from shops operating within the Terminal. The degradable waste will be composted in a compost pit, which will be located within the Terminal premises. We will document the amount of waste collected in order to gain insights into the shop keepers' commitment to reduce and recycle.

As part of the project, we have also started a day-care centre for children of sanitation and waste workers and other women working within the unorganised sector. During the initial assessment, we had found that the project area did not have a government-run Integrated Child Development Scheme centre, a facility that typically provides food, preschool education and primary healthcare services for children in the age group of 0 to 6 and their mothers. We expect that our day-care centre will benefit low income families that reside in the Madhavaram area.

So far, despite the willingness of the officials of the Corporation of Chennai to support our project, progress has been slow due to the upcoming elections. The more challenging component was to convince members of the Truck Terminal welfare association that the project is crucial to their well being, and it has taken considerable efforts to gain their trust and willingness to participate. Over the next three months, we will commence the waste collection and organise further awareness programmes to promote greater public engagement with the project, and consequently with the health and welfare of the community.

A celebration of the World Consumer Rights Day

The World Consumer Rights Day fell on the 15th of March. It is an annual occasion for celebrating the successes so far, of the consumer protection

movement and showing solidarity with it. The day is an opportunity to promote the basic rights of all customers, to call for those rights to be upheld and

to challenge business practices that place profits and margins above customer interests.

CAG, in association with the Department of Civil Supplies and Consumer Protection, Government of Tamil Nadu organized a seminar on Unfair Trade Practices, on 24.03.2016, to mark World Consumer Rights Day. The sessions were an informative mix of topics, from misleading advertisements to mis-selling of financial products and issues around pricing and ornamental gold.

Speakers pointed out that the proliferation of online shopping has made misleading advertisements even harder to regulate. For example, services claiming reduction of weight or hair growth products easily mislead desperate members of the public, even though there is often no scientific underpinning to these advertisements. Selling products at costs higher than their Maximum Retail Price (MRP) was another issue dealt with. A discussion on the purity of gold in ornaments was very informative. India, one of



the biggest consumers of the world's production of gold, still struggles to enforce standardisation of the quality of the metal. In fact, a survey indicated that 90% of commercially sold gold ornaments in India, fail to pass the gold standards assessment.

Voluntary consumer organisations from the districts in Tamil Nadu, consumers, college students and officials from the department participated in the event. There were representatives from the legal fraternity, the Bureau of Indian Standards, the Department of Legal Metrology and consumer groups who spoke at the diverse sessions in the seminar.

Draft Environmental Laws Amendment (Bill) 2015: An Analysis

The Draft Environmental Laws Amendment (Bill) 2015 has important implications on environmental protection and ensuring equitable justice for affected communities. The Bill deals with an ex-post situation where environmental damage has already occurred. It seeks to put in place 1) an adjudicatory authority, 2) monetary penalties and 3) an environmental fund to remediate the damage. On the face of it, the Bill demonstrates good intentions such as penalising for damage to the environment, but there are several questions pertaining to the design aspects that need to be revisited.

1. The Bill proposes to create a three-member adjudicatory authority within the State Level Impact Assessment Authority (SIEAA). The members of the adjudicatory authority i.e. district judge, administrative and technical, will be selected by a selection committee appointed by the central government. However, the composition of the selection committee is not spelt out. Appeals to the National Green Tribunal (NGT) has been time-limited to 90 days.

Analysis: The absence of primary rules for selection and the requisite qualifications and experience to evaluate and recommend names raises doubts about the neutrality of the process. Secondly, there is no mention of the level at which this authority will be

set up. If it is to be set up at the district level, it is not certain if a district-level judge would have the seniority required to deal with critical environmental matters. Further, the composition of the adjudicating authority does not allow for people who are neutral, knowledgeable and veteran members of civil society and academics to give an objective assessment of the situation.

2. The Bill has graded environmental damage into three categories: a) minor violation, b) non-substantial damage and c) substantial damage. The definition also sets out parameters that will result in a damage: a) direct violation of a specific statutory environmental obligation of the occupier, b) an act of omission or negligence, c) an act of commission, i.e. carrying out any activity that is likely to inflict damage on the environment. Further, the penalties are graded according to the distance of and level of environmental damage e.g. spot fines for minor violations vary from INR 1,000 to 10,000, with substantial environmental damage over a radius of 5 km incurring a fine of between INR 5 to 10 crores etc.

Analysis: This section has been made with a view to categorise penalties rather than to comprehensively define environmental damage. This has resulted in hurriedly seeking to differentiate between minor, non-substantial and substantial

damage, with no explanatory note on how the penalties have been calculated. Any ad-hoc figure is likely to be unreliable, misleading and contentious as a guide to resource allocations and compensation. The focus should have been a combination of the nature of the damage, reversibility of the damage, within a specified time-period, or its irreversibility, together with its cost to remediate.

3. The Bill also focuses on setting up an Environmental Fund, which mandates that the money realised by way of penalties will be "utilised for the protection, improvement and management of environment"

Analysis: If the government's contribution is the mainstay of the Environmental Fund, a long-term incremental commitment towards the corpus is needed to enable costly remediation measures. On the other hand, if penalties are the main source of the fund, then this should be high enough and continuous to enable remediation operations. For

example, in the US, the Superfund programme, or Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and Re-authorisation Act 1986 authorised an environmental tax to be levied on petroleum and chemical products. This environmental income tax, together with penalties and payments by the polluter for remediation operations, contributed to the bulk of the fund. After 1996, the tax contributions stopped while the amount from penalties also reduced. As a result, Superfund does not have enough funds to pay for remediation measures.

While the Environment Protection Act, 1986 contained adequate provisions to empower authorities to prevent environmental damage, the current amendment intends to remediate - rather than prevent - environmental damage. Coupled with arbitrary fines, a lack of a long term vision to promote the continuity of funding and an unclear selection process, this Bill Amendment needs some rethinking and reworking.

Re-building confidence in the real estate market

Nagaraj was a happy man when he booked an apartment with a renowned real estate developer in 2009. His lifetime ambition to own a house was going to come true! He was assured possession in 2011 but even four years later there were no signs of the builder completing the project. While Nagaraj wrote numerous emails to the builder, the company made no commitments towards completion. By now, his EMIs towards loan repayment had started and he was spending on monthly rentals as well. Nagaraj, quoting the agreement, demanded compensation for the delay (Rs. 7000 for each month's delay). To his shock, what he received, instead, was a letter asking him to pay an additional sum of Rs.8500 as interest for a 20 odd days delay in paying one of the earlier instalments. This delay had been an exception, for as a rule, he had made all payments well within time. This on-off delay had now attracted a penalty! Apparently, a rider in the agreement stated that if even one payment was not made on time, then the buyer would not be entitled for compensation! Nagaraj refused to pay.

An aggrieved Nagaraj approached CAG for assistance. CAG wrote to the builder demanding that he take a more rational approach in dealing with the issue. However, when the builder refused to see reason, CAG advised Nagaraj to approach the Consumer Forum to seek redress.

There are many such instances where consumers are

taken for a ride by builders. Thus, in order to put in place a regulatory structure and restore confidence in a sector that is largely opaque and unregulated, the Real Estate (Regulation Development) Bill, 2015 was passed by the Parliament. The salient features of the legislation include

- 1) Setting up of a State Real Estate Regulatory Authority (RERA), responsible for both residential and commercial real estate transactions
- 2) Mandating developers to maintaining a dedicated bank account for each project with 70% of the project funds parked in the account to ensure that the funds are not diversified for investment in new projects, thus delaying completion and handover to consumers.
- 3) Mandating developers to post all information like project plan, layout, necessary approvals, land title status, schedule for completion and other details related to the project with the RERA so that it can be available to consumers
- 4) Defining carpet area very clearly, effectively putting a stop to the current practice of selling on the basis of ambiguous super built up area.
- 5) Holding the builder liable for delays in the project and mandating them to pay the same interest as the EMI being paid by the consumer to the bank, to the consumer.

However, enforcement lies with the States and it is important that Tamil Nadu ratifies the Act at the earliest and establishes the RERA with immediate effect so that consumers stand to gain.

Strengthening practitioner's capacity to effectively participate in the EIA process

CAG organised a workshop titled "The South India workshop on Environmental Impact Assessment (EIA) process" on March 30, 2016 in Chennai. The objective of the workshop was to bring together researchers, practitioners and public officials from Karnataka, Andhra Pradesh and Tamil Nadu to sharpen knowledge about the EIA process, support the professional development of practitioners, and to provide a networking platform.

The discussions centred on ways to strengthen the EIA reports, drawbacks in public hearings, lack of effective monitoring and compliance mechanisms in thermal power plants, and National Green Tribunal cases. Some of the concerns raised included:

- 1) Accredited consultants not undertaking field visits and engaging in primary survey resulting in lack of authentic information in the EIA documents
- 2) The modalities of conducting the public hearing - lack of information given to participants on public hearing, complex and technical nature of the EIA documents, inability of stakeholders to give quality

comments etc.

3) The lack of an institutional capacity to undertake post-EIA monitoring and compliance of industrial activities, and the lack of awareness among stakeholders on various reporting standards and compliance conditions.

4) Cases surrounding the declaration of the invalidity of public hearings conducted in 2013 for the preparation of Coastal Zone Management Plan and the need to re-conduct public hearings in accordance with Coastal Regulation Zone notification 2011 and prepare new maps

We showcased an animated Tamil movie and a cartoon booklet on the EIA process titled "Do You Know?" and an educational documentary on the EIA process, which were well-received. The workshop highlighted the need for greater civil society participation in monitoring and compliance, capacity building on analysing EIA documents, dissemination of demystified information on monitoring and compliance, and creating greater awareness on public hearings.



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