

Panel Discussion

POWER TO THE PEOPLE

*Strengthening Public Service
Guarantee Laws in India*



I. Introduction

India has made significant strides in improving public service delivery in recent years. However, there is still a long way to go to ensure that citizens and businesses have timely access to public services such as registration and approvals and that these services are delivered efficiently and effectively. Public service guarantee laws have been enacted in several Indian states to address this issue, but there is a need to strengthen these laws and ensure their effective implementation.

Centre for Civil Society (CCS) and Centre for Transparency and Accountability in Governance, National Law University Delhi (NLUD) are proud to announce the “Power to the People: Strengthening Public Service Guarantee Laws in India” event, a one-day event with panel discussions on strengthening public service guarantee laws in India. The event will take place on 29 April, 2023.

This event aimed to bring together key stakeholders to discuss the current state of public service delivery in India and the need for robust laws to ensure accountability and transparency in service delivery.

II. Objectives

1. To launch a Model Act on public services guarantee and delivery laws that can be adopted by various states in India.
2. To facilitate consensus building among concerned government bodies, civil society organizations, citizen action groups, and other key stakeholders.

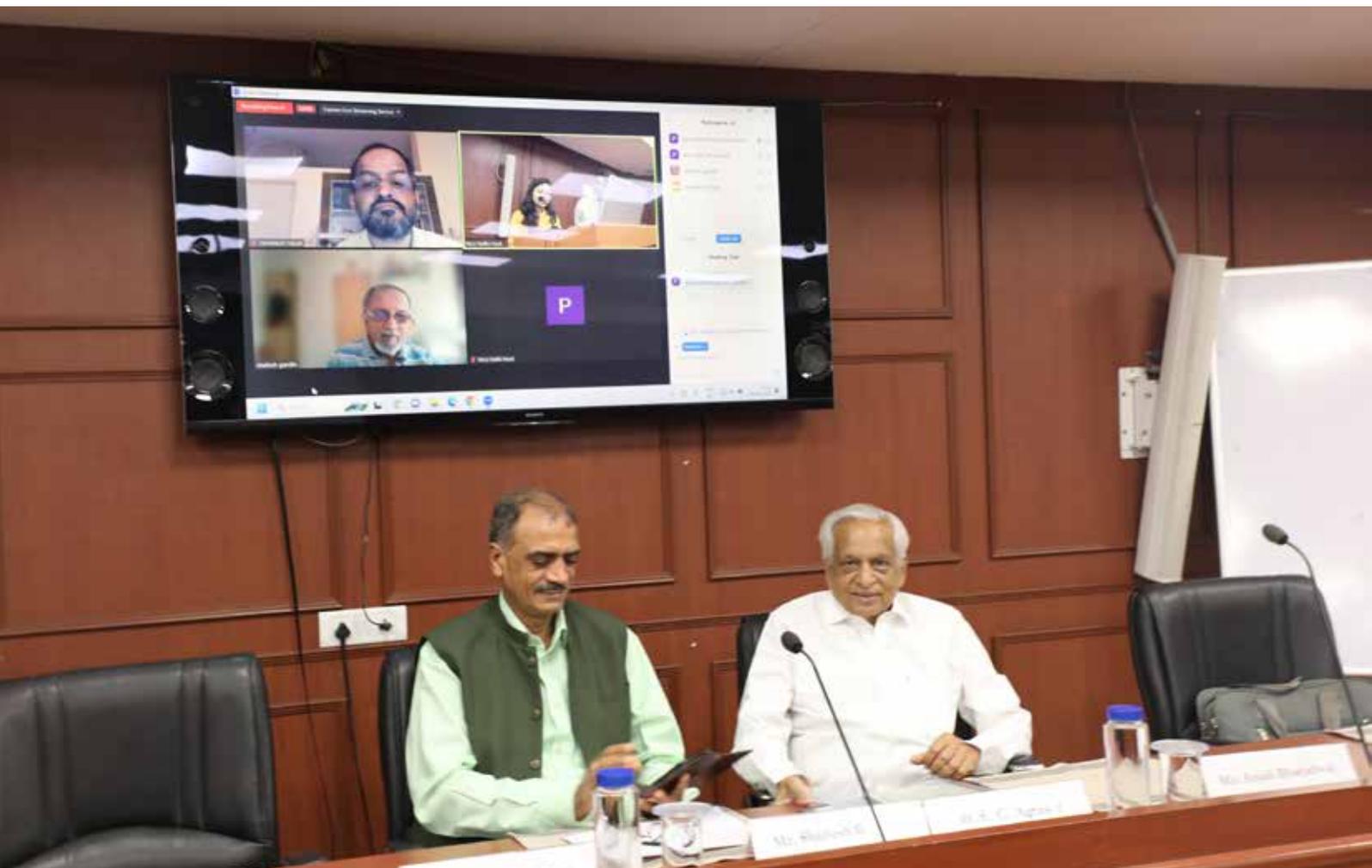


Inaugural session of Power to the People: Strengthening Public Services Guarantee Laws in India

III. Key Points from the Sessions

SESSION I:

Beyond the Paper: Navigating the Implementation Challenges of Public Service Guarantee Laws in India



Speakers: Shailesh Gandhi, SC Agrawal, Anjali Bharadwaj, Venkatesh Nayak

Moderator: Jeet Singh Mann, Director, CTAG, NLUD

The discussion aimed to explore the various facets of the issues encountered while navigating the Public Service Delivery Laws in India. It further aimed to discuss the gaps in the formulation process and the ultimate impact it incurs on the beneficiaries.

Speaker 1: Shailesh Gandhi

During the speech, the speaker highlighted the importance of democracy and the public access to laws. Considering India's election system, which is "for the people, of the people, by the people", the speaker stressed on the importance of Public Access Laws, which are created by legislators and bureaucrats and must be adhered to by the citizens. The Right to Information (RTI) Act was discussed, with a focus on its history and significance in terms of promoting transparency. The speaker also discussed the Maharashtra Law, which mandates disciplinary action if a decision is not made within 45 days, and the Right to Services Act, which includes penalties for non-performance.

The speaker argued that without holding regulators responsible, the fight for these laws is meaningless. They criticized the performance of the Lokpal and called for an evaluation of the work of commissioners, Lokayukts, and bureaucrats to hold them accountable for their actions. The Anti-corruption Bureau in Maharashtra was cited as an example, as it has a list of people convicted of corruption, but no action has been taken. The speaker also noted an increase in the level of public fund wastage.

While public services have shown some improvement, the quality of judicial services has not. The speaker acknowledged that even with checks and laws in place, corruption still occurs. They emphasized the need for a system to oversee the work of the Lokpal to promote better governance.

The speaker's submission was that civil society organizations and academics should evaluate whether they are responsible for reports on corruption, and that those in positions of power need to be held accountable.

Speaker 2: Venkatesh Nayak

During the discussion, Venkatesh Nayak's focus was on the aspect of justice and the importance of service guarantee laws. These laws have several features, including the government's ability to identify specific services and stipulate certain laws for their delivery, the implementation of a multi-layered Right to Service (RTS) Mechanism, penalizing service providers for non-compliance, and utilizing digital infrastructure to record and check service delivery, along with its challenges. The necessity of these laws is to indicate non-functional and poor functional governance structures while ensuring transparency in the government mechanism.

The two objectives of service guarantee laws are to prevent corruption and address legitimate grievances arising from delays in service delivery, which may not be the fault of the officer. However, despite good intentions, implementation issues have arisen with some of these laws, as seen with the Madhya Pradesh 2010 law. Many activists have intervened to improve implementation, such as in Bihar, where 2-3 lakh applications were filed under the service guarantee law, but implementation was lacking. A high disposal rate was seen with 34.7 lakh applications filed, and over 50% were of welfare departments, and 43% were of revenue departments. However, there is a lack of uniformity in measuring the quality of services provided, and rationalizing services is crucial across all states to reduce the time taken to dispose of a service, which should be uniform.

In Uttarakhand, the annual report of 2019-20 showed that there were only 45,000 RTI applications compared to over 3 lakh service guarantee law applications, but it is unclear whether the implementation of the service guarantee law is responsible for the drop in RTI applications. There is a need to measure the quality of services provided under the service guarantee laws, but there is no uniform way of doing so across different states. The RTS Commission has some loopholes, and there is a need for empirical research to contain corruption in RTS.

Overall, the importance of service guarantee laws in preventing corruption and addressing legitimate grievances arising from delays in service delivery was emphasized, but implementation issues and lack of uniformity in measuring service quality were identified as areas for improvement.

Speaker 3: Anjali Bhardwaj

The delivery of public services in India is plagued with problems, which are symptomatic of the dire condition of the public service system. For instance, the public distribution system has multiple layers of authority, and if the shopkeeper is not delivering the ration, it's not just his fault. The officer responsible for inspecting the shop should also be held accountable. Therefore, responsibility should be shifted to all layers, not just the delivery layer.

There is a need for proper grievance redressal laws that can address the grievances of citizens within the existing system. Bribery is rampant, and the absence of a proper system gives no choice to the marginalized but to pay bribes. However, there are public service delivery legislations in several states, but there is a black hole in which the complaints filed by a citizen go in case of grievance. Furthermore, the judiciary system lacks a complaints mechanism.

In 2014, the government promised to pass The Grievance Redressal Bill, 2011. Despite various recommendations and reports, there has been no progress on the bill's passage. An effective grievance redressal law must meet certain requirements. Firstly, it should provide information with transparency, linked to the Right to Information Act. Secondly, it must empower all the marginalized people, including those living in rural India, with a decentralized framework in place. Citizens Charter is an absolute for the effective implementation of such laws. Thirdly, there should be an independent appellate mechanism, and fourthly, there should be penalties imposed on officers violating the law.

Finally, it's crucial to ensure that laws are not diluted before their passage and implementation. There must be a strong political will to pass such laws and a comprehensive framework for their implementation. Only then can the grievances of citizens be addressed effectively, and the delivery of public services be improved.

Speaker 4: SC Agrawal

The speaker shared about the practice of “Suvidha Shulk” which is a widespread issue in India. This unofficial fee or bribe that people pay to government officials to get their work done quickly or smoothly is illegal and unethical, and it harms the public interest by promoting corruption and inefficiency in the government machinery. Despite the legal prohibition, “Suvidha Shulk” is still prevalent in many sectors, especially in areas like licensing, permits, and public services.

The RTI Act has been a significant step towards transparency and accountability in governance. People have used the Act to address public grievances and expose corruption, leading to several high-profile cases of accountability and transparency in governance. However, the RTI Act is not a panacea for all problems, and its effectiveness depends on the willingness of public authorities to be transparent and accountable.

Like any other legal provision, the RTI Act is prone to misuses and abuses by some individuals who seek to exploit it for their personal gain. Unfortunately, there have been instances of false or frivolous RTI applications being filed, leading to unnecessary burden on public authorities and wastage of resources. To prevent any misuse of the Act, the Punjab and Haryana High Court judgment in the Punjab Sarkar Union case held that RTI applicants have a duty to prove their identity before seeking information. While the RTI Act allows citizens to seek information from public authorities without having to pay any fees for the first 100 pages, there are charges applicable for additional pages and other costs. Some people have misused this provision by filing large volume RTI applications, causing a significant burden on public authorities and wastage of resources. Additionally, some individuals have exploited their knowledge of the post office system to evade RTI fees, by manipulating the delivery or return of their applications. Moreover, there have been instances of public authorities themselves misusing the Act. For instance, some public authorities have denied or delayed information without any valid reason, or provided false or incomplete information to RTI applicants. Such misuses by the authorities undermine the purpose and effectiveness of the RTI Act and erode public trust in the government.

The RTI Act is a complex and technical legislation, and it requires public authorities and citizens to have a good understanding of its provisions and procedures. Therefore, proper training and awareness programs can help improve the implementation and effectiveness of the RTI Act, by educating people about their rights and duties under the Act. Such training programs can also help prevent misuses and abuses of the Act by promoting responsible and ethical use of the RTI Act. It is crucial to provide proper training and guidance to individuals and authorities alike on how to use the RTI Act effectively and responsibly. The main focus should be on the problems that we, as consumers, face in accessing information and addressing grievances. As former President APJ Abdul Kalam once said, “Gifts and tips are nothing but bribes”. This statement reflects the general distrust in the system due to its inefficient functioning. It is imperative that we take steps to ensure that the RTI Act is used for its intended purpose and not as a tool for personal gain or harassment.

SESSION II:

Delivering for the People: Innovative Best Practices in Public Services Guarantee Laws



Speakers: JS Chhokker, Manohar Dubey, Jaya Prakash Narayan

Moderator: Prashant Narang, Senior Fellow, CCS

Panel II, titled “Delivering for the People: Innovative Best Practices in Public Services Guarantee Laws”, aimed to discuss the best practices in ensuring public service delivery and how it can be leveraged to strengthen public service guarantee laws in India.

Speaker 1: JP Narayan

Dr. Narayan emphasized the need for reform in India's public service delivery laws, citing the country's state-controlled economy and the vast power imbalance between the lowliest public servant and the majority of citizens. This power dynamic often results in situations where public servants are able to abuse their power for personal gain, while citizens are left feeling powerless and frustrated. In India, laws and regulations are not always the first point of departure for addressing public service grievances. Instead, citizens often resort to bribery and corruption to get their work done. Create multiple players creating competition: one way to improve public service delivery is to create competition among multiple players. For example, vehicle registration could be outsourced to proper agencies, rather than being handled solely by government officials. Building regularisation by due process subject to monitoring and strict accountability; Regularisation of public services should be subject to due process, with monitoring and strict accountability to ensure that public servants are delivering services efficiently and effectively.

Transparency is crucial in improving public service delivery. Examples of this include transparency in technology, vaccine registration, and passport delivery. Section 4 of the Right to Information (RTI) Act, which mandates the proactive disclosure of certain types of information by public authorities, is not always implemented effectively by various departments. Appropriate authorities should apply this provision to improve transparency and accountability.

Public service delivery in India is often slow, with citizens having to wait for long periods of time to receive services. This needs to be addressed by improving the efficiency of delivery processes. There needs to be greater pressure on the government to deliver on its promises of providing public services to citizens.

The speaker also emphasized the importance of Citizen Charter Law. Grievance redressal mechanisms should be combined with Citizens Charter provisions to ensure that citizens have an effective means of addressing grievances related to public service delivery. The Loksatta movement in Andhra Pradesh was the first to introduce Citizens Charter provisions in India, with the aim of improving public service delivery.

However, despite the existence of the RTI Act, citizens often do not receive the information they request due to various barriers such as bureaucratic hurdles and corruption. Multiplicity of agencies is slowing bureaucracy: The multiplicity of agencies involved in providing public services in India can result in slow and inefficient bureaucracy, which can further exacerbate the challenges in providing effective public service delivery.

Political economy issue: The demand for public office in India is high, leading to a political economy where corruption and bribery are often seen as necessary to get things done. This perpetuates a cycle of poor public service delivery and lack of trust in government institutions. In India, citizens often believe that the cost of not paying a bribe is much greater than the benefits of receiving the public service they need. This leads to a culture of bribery and corruption in public service delivery. There has been an increase in corruption related to the rule of law in India, which is a concerning trend that needs to be addressed to improve public service delivery. And, in some cases, political transformation in India has led to a failure of public services due to a lack of political will.

Speaker 2: Manohar Dubey

Manohar Dubey emphasized on the following points:

The statement “until and unless the power source is legit, nothing can happen” holds significant relevance in the context of Public Service Guarantee Laws in India. The history of the Citizens Charter in India can be traced back to its introduction by Prime Minister John Major in England in 1997, which was later adopted by Chief Ministers’ Conference in India. However, the failure of the charter led to the introduction of the second round of the citizens charter, which was initiated by Manohar Dubey himself.

Mr. Dubey also recognized that Right to Service (RTS) is more important than Right to Information (RTI) as poor people are more interested in RTS. In 2009, the good governance group converted the citizen charter into an act in a conference in Madhya Pradesh, and Dubey himself made the draft. The act notified 32 services, and most of the applications were dealt with in time with almost a 99 percent rate.

To facilitate the application process, Lok Seva Kendra, a facilitation center, was established where a person can come and file an application. The Information Technology (IT) Act 2000 provides guidance on how to authenticate electronically submitted documents. Today, more than one crore applications have been received under Public Service Guarantee Laws, and over one lakh appeals were filed, out of which only 74 cases saw penalties imposed.

Universal services can be provided suo moto to people, and the government of Madhya Pradesh is proposing a citizens charter to provide birth certificates, death certificates, and other services. Dubey proposed that technology can simplify many processes, and he is currently working in two villages. In summary, the legitimacy of the power source is essential for the effective implementation of Public Service Guarantee Laws in India.

Speaker 3: Professor JS Chokkar

In the context of public service guarantee laws in India, the speaker began by discussing the history of Sati in Rajasthan. He then emphasized the importance of empowering people, but questioned where this power would come from. He stressed the significance of implementing laws, not just creating them.

The speaker mentioned a recent development in the Supreme Court, where on May 26, 2020, the court took suo moto cognizance of the “problems and miseries of migrant laborers.” On June 29, 2021, the court directed the central government to register migrant laborers, and status reports were submitted, revealing that no action had been taken. The speaker noted that 38 crore migrant laborers had registered on the portal but did not have ration cards due to lack of a permanent address. He argued that those registered on the portal should receive the same benefits as those who are not registered. However, despite the judgment in 2021, implementation is still ongoing.

The speaker emphasized that nothing happens on the ground unless people push for it. Therefore, it is crucial to ensure that laws are implemented and followed to ensure that citizens receive the services they are entitled to.

SESSION III:

Click for Service: The Role of Technology in Ensuring Public Service Delivery



Speakers: Sunandan Madan, R.K. Mitra, Ashutosh Kumar Mishra

Moderator: Arjun Krishnan, CCS

The final session, Panel-III, titled “Click for Service: The Role of Technology in Ensuring Public Service Delivery”, discussed the role of technology in public service delivery and how they can be leveraged to strengthen public service guarantee laws in India.

Speaker 1: Dr. R.K. Mitra

In the report update, it is important to highlight the discussion on e-governance and legal gaps. The speaker emphasized the evolutionary nature of e-governance in India, citing the example of an IPS officer in Jalandhar district who developed an IT-based system in 1986. It is noteworthy that these initiatives were implemented even without the presence of legislation, underscoring the proactive approach of IPS officers. The concept of governance and e-governance was further explored, with an emphasis on the need for a bottom-up approach rather than a top-down approach. The speaker argued that a top-down approach often results in a significant gap between the implementation of laws and their relevance to individuals on the ground. Merely enacting laws cannot effectively address the issues at hand; instead, there should be a focus on developing a local technology ecosystem that caters to grassroots-level needs. The utilization of technology by common people is a testament to the impact of technology cascading down from the top. To ensure effective governance, the speaker advocated for a departure from verticalization and a move towards a more inclusive approach.

Speaker 2: Sunandan Madan

Mr. S Madan Sir discussed the challenges and opportunities of technology in delivering public services. He acknowledged the difficulties in implementing technology-enabled public services and emphasized the role of civil society organizations in bridging the gap between technology and the people.

He gave examples of the 30 helplines set up in Haryana and the service number established to assist people in rural areas who have no access to information. He explained that in rural areas, calling is the preferred option for seeking information and assistance.

Madan Sir also talked about two models of technology-enabled public services: the beneficiary model and the assistance model. In the beneficiary model, people can call and get assistance directly, while in the assistance model, trained personnel provide assistance to the people. He emphasized on the importance of considering the needs and preferences of the people in implementing technology-enabled public services.

Speaker 3: Dr. Ashutosh Kumar Mishra

In the context of Role of technology in ensuring Public Service Delivery, Dr. Ashutosh Kumar Mishra discussed the importance of e-governance and the legal framework around it. He pointed out that India has witnessed evolutionary e-governance, with the development of IT-based systems by IPS officers in Jalandhar district in 1986, even in the absence of legislation.

He highlighted the need for a bottom-up approach to governance, as a top-down approach may have a large gap between those in power and those who need the services. While laws are necessary, they cannot alone alter a situation, and technology must have a top layer while also having a local technology ecosystem and a grassroots-level technology system.

Dr. Mishra emphasized on the need for technology that is accessible to common people, rather than just being a tool for the top echelons of the society. He also pointed out the need to move away from verticalization and towards a more decentralized approach to technology and governance.

IV. Conclusion

The day was concluded with the unveiling of the Model Public Service Delivery Act 2023. The act holds recommendations to ensure access to speedy, simple, clear, transparent, efficient and time bound delivery of services.



JOINT DECLARATION ON STRENGTHENING PUBLIC SERVICE GUARANTEE LAWS IN INDIA

Centre for Civil Society (CCS) and the Centre for Transparency and Accountability in Governance at National Law University Delhi (NLUD) convened on 29 April, 2023, for a one-day event titled “Power to the People: Strengthening Public Service Guarantee Laws in India”. The event brought together key stakeholders to discuss the current state of public service delivery in India and the need for robust laws to ensure accountability and transparency in service delivery.

The primary objectives of the event were to launch a Model Act on public services guarantee and delivery laws that can be adopted by various states in India and to facilitate consensus building among concerned government bodies, civil society organizations, citizen action groups, and other key stakeholders.

KEY POINTS OF DISCUSSION

1. **System Design for Transparency and Efficiency:** The design of the public service delivery system should inherently guarantee transparency and identify bottlenecks at both systemic and individual levels. This proactive approach, focusing on the root causes of inefficiencies, is more effective than reactive grievance redressal mechanisms. A well-designed system can preemptively address potential issues, ensuring smooth and efficient service delivery.
2. **Fostering Competition:** Promoting competition among multiple players can significantly enhance public service delivery. A direct correlation exists between increased competition and improved quality and efficiency. Outsourcing certain services to non-governmental agencies can provide consumers with better options and simultaneously boost the productivity of service providers.
3. **Adopting a Local Technology Ecosystem Approach:** The development of a local technology ecosystem can streamline processes and enhance service delivery. The promotion of e-governance with an inclusive approach ensures accessibility, caters to grassroots-level needs, and takes into account citizen preferences. This approach ensures that service delivery aligns with a beneficiary model, where people can directly access assistance due to simplified and user-friendly processes.
4. **Promoting Decentralization:** Adopting a bottom-up approach to governance and e-governance enables beneficiaries to effectively communicate their needs. This approach empowers ordinary citizens and promotes growth and diversification among service providers. Citizens can avoid long queues, easily access their service status, file grievances, and communicate their needs effectively. A decentralized approach also ensures better monitoring and support at all levels, thereby enhancing the overall efficiency of public service delivery.
5. **Incentivizing Transparency and Efficiency:** Incentives should be put in place to encourage transparency and efficiency in public service delivery. This could take the form of rewards or recognition for departments or individuals who demonstrate exceptional transparency and efficiency. Such incentives can motivate public servants to perform their duties diligently and foster a culture of transparency and efficiency in public service delivery.

JOINT DECLARATION

Based on the discussions, CCS and NLUD jointly declare the following:

1. **System Design:** We commit to advocating for a system design that inherently guarantees transparency and identifies bottlenecks at both systemic and individual levels.
2. **Competition:** We will work towards fostering competition among multiple players to improve public service delivery.
3. **Local Technology Ecosystem:** We will strive to develop a local technology ecosystem to simplify processes and improve service delivery.
4. **Decentralization:** We will promote decentralization to allow beneficiaries to communicate their needs effectively.
5. **Incentives:** We will push for the implementation of incentives to encourage transparency and efficiency in public service delivery.

This Joint Declaration represents our shared commitment to improving public service delivery in India, and we pledge to work collaboratively towards achieving these objectives.

Signed,

Prashant Narang

Senior Fellow, Research and Training Programs
[Representative, Centre for Civil Society]

Dr. Jeet Singh Mann

Director, Centre for Transparency and Accountability
in Governance, NLU Delhi
[Representative, Centre for Transparency
and Accountability in Governance,
National Law University Delhi]

