

November 11, 2013  
Vigyan Bhawan, New Delhi.

**Keynote address of Mr. Kapil Sibal, Minister of C&IT and L&J at the XX<sup>th</sup> Annual Conference of State ACBx & CBI**

1. Friends, the Conference has begun rather well. The pre-Conference publicity that CBI has received has brought it to the centre stage of national consciousness. This has given rise to discussions and debate. This augurs well.
2. Let me now come to the theme of the Conference: *Evolving Common Strategies to Combat Corruption and Crime*. It is indeed very topical. Also the seven sub themes chosen are not only appropriate for discussion amongst diverse fora of law enforcement agencies but of national concern as well. Several high profile cases, in recent days, have focused public interest and attention on these topics as well.
3. Crime and Corruption are organically linked. The rapid advances in transportation and communication systems, shrinking borders, increasing globalization and newer technologies have increased transborder and international crime dramatically. For example, cyber terrorists can now invade our national security systems; cyber thieves operating in one country can steal money from entities in other countries, pornographic rings can operate in a global community transcending national boundaries. Increasingly, criminals are using advances in science and technology to their advantage. Crime, criminals and proceeds of crime traverse State and national boundaries routinely. Criminals use the limitations and constraints of sovereignty and exclusive criminal jurisdiction of Law Enforcement Agencies to their advantage. Here lies the emergent need to evolve common strategies for combating crime and corruption.
4. We are all aware of the tenuous and time consuming process for legitimate international cooperation between Law Enforcement Agencies. International police cooperative relationships evolve overtime and harmonization of legal systems between countries is a painfully slow process. Sharp differences that often exist between domestic legal systems hinder effective mutual legal assistance in criminal matters. Though there is a broad and evident consensus about the need to respond adequately to achieve international police cooperation, clarity regarding methodology to achieve the same remains foggy. International Instruments like United Nations Convention Against Corruption (UNCAC) aid and expedite the process of harmonization of domestic legal frameworks by providing benchmarks and assisting the states in plugging legislative gaps.
5. India, as you all know, has signed the UNCAC in the year 2005 and ratified it in the year 2011. The ratification of the UNCAC and the international practice on treatment of the offence of bribery and corruption have necessitated a review of the existing provisions of the Prevention of Corruption Act of 1988. The description and coverage of the offence of bribery needs to be amended so as to bring it in line with the current international practice and as per the UNCAC. We thus recognize that the Prevention of Corruption Act, which is at the heart of the anti-corruption machinery in India, needs to be amended in keeping with the changed economic and social realities in India as also our commitment to the United Nations Convention Against Corruption. Accordingly the Prevention of Corruption (Amendment) Act, 2013 has been introduced in Loksabha on 19<sup>th</sup> August, 2013. We hope it becomes law soon.

6. Further, Article 16 of the UNCAC requires criminalization of the bribery of Foreign Public Officials (FPOs) and Officials of Public International Organisations (OPIOs) in international business transactions, which is not covered under the Prevention of Corruption Act. Hence, a new Bill, the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organisations Bill, 2011 was introduced in the Lok Sabha on the 25<sup>th</sup> March, 2011. Presently bribery offences under Prevention of Corruption Act (Sections 7, 8, 9 and 13) are listed as predicate offences under the Prevention of Money Laundering Act (PMLA). Mutual Legal Assistance relating to the proceeds of corruption may therefore be available under the PMLA, provided there is an applicable treaty or arrangement, and provided the investigation or prosecution concerns a money laundering offence. All the offences under the PC Act are also extraditable.
7. International assistance is available for investigating criminal matters as well as bribery. Sections 166A and 166B of the Criminal Procedure Code deal with out-bound and incoming Letters Rogatory respectively. Besides, Chapter VIIA of Cr. PC deals with Reciprocal Arrangements to provide for gathering evidence in pursuance to the requests of Foreign Law Enforcement Authorities. India has signed 36 Mutual Legal Assistance Treaties (MLAT) and 36 Extradition Treaties to facilitate International Cooperation in Criminal Matters. It is worthwhile to note that India has executed more than 300 Letters Rogatory (LRs) and MLAT based letters of request received from foreign law enforcement authorities in the past 10 years. Further, India has ratified the United Nations Transnational Organized Crime Convention and the two Optional Protocols to suppress (i) Human Trafficking; (ii) Migrants; and, (iii) Small Arms Trafficking, and we are in the process of carrying out necessary changes in our national laws to fulfill our obligations under the Convention.
8. Let me now turn to a few of the initiatives that we are proactively pursuing, namely, legislations such as the Right of Citizens for Time Bound Delivery of Goods and Services, Grievance Redressal Bill, National Identification Authority of India Bill, the Whistleblowers Bill, Lok Pal and Lok Ayukta Bills. These Bills are at an advanced stage for consideration. While the Government is seeking to bring in greater transparency in administration through e-governance schemes and rights based empowerment of citizenry through initiatives like Right to Information Act and for easy access to competent grievance redressal machinery, there is an equal need for initiatives to strengthen law enforcement aspects as well. What are these?
9. The Government is the sovereign guardian and custodian of the natural resources of a country; the exploitation of these natural resources is necessary for deriving value and creation of economic wealth. In doing so the Government has to ensure that the exploitation of natural resources is consistent with the twin objectives of protecting the larger public good and the ecology and the environment. However, for emerging economies, this is easier said than done: as the latest technologies for the exploitation of most natural resources are monopolistically held by large multinational corporations. As a result in framing policies for exploitation of natural resources, the government has to strike a fine balance between private and public good. There may therefore be some scope for judgmental discretion and scope for malpractices in the implementation of policies. Anti-Corruption agencies thus need to build better understanding of the nuances of policy implementation and decision making. The problem is accentuated when the demand for natural resources crosses national boundaries. Transnational investigations get bogged down due to legal hurdles and inadequate understanding of respective national laws and procedures. There is

scope for law enforcement agencies to better understand the challenges involved in trans-national anti-corruption investigations and improve their capacities through sharing of best practices and developing standardized protocols.

10. Internet, due to its very attributes, is facing an increasing number of threats, more and more caused by organized gang of criminals and fraudsters. There is also now a growing threat to national security as Web based espionage and warfare becomes increasingly advanced, moving from curiosity to well-funded and well-organized operations for not only financial or business advantage but also political or technical gain. In addition, there has been a growing trend of using ICT as an effective medium for cyber terrorism and cyber warfare. As some governments and government-allied groups are now using the Internet for espionage and cyber attacks on the critical national infrastructure of other countries. Cyber Crimes are thus on the rise.
11. We have of course legislated the Information Technology Act, 2008 and promulgated the IT Rules which we believe are globally contemporary. The government has also announced the National Cyber Security Policy which incorporates multi-dimensional, multi-layered initiatives and responses. It caters to the whole spectrum of ICT users and providers including small and home users, medium and large enterprises and government and non-government entities. We have also set up mechanisms for ensuring cyber security of critical information systems and have prescribed standards for adherence and compliance on various fronts. Law enforcement agencies need to keep abreast of technological developments and skills to ensure that cyber criminals do not overtake us. Although cybercrimes do not feature specifically in the agenda of this Conference, nevertheless I would urge the law enforcement officers to give it due priority in their areas of work.
12. While the Constitution guarantees the Fundamental Rights to Religion and Freedom of Expression, nevertheless, speech that intentionally incites hatred or division amongst communities on the basis of religion, race, caste, language, etc. is a penal offence. These days, with the advent of the Internet, social networking and chat sites that work on a 24X7 basis with a certain assurance of anonymity and privacy, mischief mongers have tried to incite hatred amongst communities through direct hate speech; by creating a combustible communal atmosphere using derogatory expressions; and fanning false rumours driving communities to organize themselves and inciting them to violence. Modern technology serves as an enabler to instantaneously, through hate speech, instigate riots, giving virtually no time for the law enforcement agencies to respond to or prevent/ control such activity. I believe that there is a need to have a legislative response to this. As much as we respect freedom of expression, we also respect the freedom of everyone to go about his or her business without hindrance.
13. Human Trafficking is a multifaceted organized crime both within India, in our neighbouring countries and globally. Organized criminal gangs have close linkages with terrorist and FICN networks. They have been ferrying human cargo to serve as camel jockeys, as sexual workers or as forced labour or domestic workers. In recent time's cases of brutality meted out to domestic help, who may have been trafficked, has come to light. A new form of trafficking through contracting of sham marriages in female deficit areas is also on the rise. Recognizing the gravity of the problem, the Government has taken several initiatives to address the problem.

14. Human trafficking has been defined in the Indian Penal Code in line with the United Nations and includes recruitment, transporting, harbouring , transferring or receiving a person by using force, threat, coercion, abduction, fraud, deception or inducement for exploitation and the punishment has been enhanced to at least 7 years' imprisonment. Even the employment of trafficked persons has been brought under the provisions of the Indian Penal Code. A new legislation, the Protection of Children from Sexual Offences Act, 2012, with severe and stringent punishment has been enacted. It also envisages prosecution of offenders and rehabilitation of victims. CBI is the national nodal agency nominated by the Ministry of Home Affairs for implementation of the Protocol under United Nations Convention against Transnational Organized Crime (UNTOC). Anti- Human Trafficking Units (AHTUs) have been set up in states. We need to work on strengthening the capacities of the AHTUs as also the Agencies in our neighbouring countries and beyond.
15. Another major form of trans-jurisdictional crime is with reference to intellectual property. Intellectual Property like any physical property has value and constitutes wealth of a person or an organization; and like all wealth, it attracts criminals, though not typical criminals but the educated and sophisticated. Counterfeiting and piracy of products is rampant for FMCG products, pharmaceuticals, cosmetics, automobile spare parts, software, music, video and books. The Confederation of Indian Industry estimates that the FMCG Sector alone loses up to 15% of its revenue due to this, with top brands losing up to alarmingly high levels of 30%. Another study by RAND Corporation estimates that between 200 to 600 million Euros are lost to intellectual property theft annually. Most often the counterfeiters, who commit such crimes, get away. This becomes serious especially when the crime intersects with national boundaries, which may even lead to friction between countries. Sometimes unilateral action by one country disturbs the already fragile international legal and trade order.
16. It is comparatively easy to get away with such IP crimes due to the primacy of local and national laws over international law since most infringements fall under the domain of civil liabilities. However, the Indian Penal Code, the Copyrights Act, Trademarks Act, Customs Act in India envisage a direct role for law enforcement agencies for violations of Intellectual Property Rights. Also, owing to many differences between substantive and procedural laws in different countries; one country's intellectual property thief is another country's innovator. Since we live in sovereign nation-states, there is little that we can do, except to strive to build trust through open dialogue. This Conference, I hope, sensitizes the law enforcers to be partners with businesses in checking these crimes, prioritize enforcement of Intellectual Property Rights, build investigation capacities and share best practices.
17. Pursuit of excellence and participation in sports is one the purest of human activities. Sportsmanship is a word that is used to describe a wide array of virtues ranging from patriotism, cooperation and team-spirit, hard work, physical and mental prowess, dedication, truthfulness, fairness and ability to cope with failure or setback. Sportspersons are icons worshipped by ardent followers. Top sport stars of the world command a following and status at par with the best of entertainers. Unfortunately, corruption is seriously undermining the purity of sports through a wide array of activities such as match-fixing, spot-fixing, gambling, performance enhancing drugs and betting. There are reports that organized criminal gangs based outside of India, in cahoots with counterparts within our national boundaries are reportedly active to fix even minutiae in cricket such as the outcome of each ball delivery, field placement etc. The enormity of the challenge is growing by the day. Self-regulation by Sports Bodies does not appear to have had a satisfactory impact. Many countries such as South Africa, Portugal, Italy and Sri Lanka have come out with specific legislation to

check corruption in sports. Perhaps, the time has come for India to examine the need for a specific law and a 360 degree vision to deal with the problem while protecting the essence of sports and sportsmanship. There is also the need for greater inter-agency coordination and international cooperation to deal with the problem.

18. Friends, I have been briefed about the distinguished panelists and delegates who are participating in this Conference. I am impressed with the level of response and participation. I am confident that the Conference will be a success; each participant will go back enriched and be able to meaningfully contribute to our shared quest for a better and more secure world. I look forward to hearing about the deliberations in this Conference and the actionable take-aways. Once again, I thank you all and wish you the very best.

Jai Hind!