

TACKLING CORRUPTION: AN INDIAN PERSPECTIVE

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Corruption has prevailed in society since time immemorial. In the modern world, however, corruption is associated with public office. To a common man, corruption is associated with giving or accepting some kind of compensation in the form of money, office or position for a service rendered in an illegal form, or by overstepping one's legal authority. It is a kind of reward promised or taken, or gratification expected for a service that is rendered in the course of fulfilment of one's normal administrative or other lawful duties. It may be construed as, "offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person" as also "the use of office for private profit". It may manifest itself in a simple form such as the purchase of a railway ticket by paying an extra amount to the ticket collector or procuring a license for the establishment of an industrial unit or a contract for the construction of a building project. Sometimes, it may take more subtle forms such as in the distribution of election tickets or in the change of political affiliations of the members of the political parties.

Section 7 of the Prevention of Corruption Act, 1988 defines corruption as:

"Whoever being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain gratification whatever, other than legal remuneration as a motive or a reward or for bearing to do any official act or for showing or for bearing to show, in the exercise of his official functions favour or disfavour to any person with the Central or State Government or Parliament or Legislature of any State or with any public servant as such."

The World Bank defines corruption as the abuse of public office for private gain. Corruption as dealt with by the Council of Europe's Multidisciplinary Group of Ministers is bribery and can be said to constitute the combined effect of monopoly of power plus discretion in decision-making in the absence of accountability.

Amongst the major causes of corruption, the important ones are, greed, circumstances, opportunities, and other temptations that include party funds, money for patronage, apprehension of loss of office, need for extra money to maintain standards, etc. In an expanding economy on account of rapid industrialization and growth of an acquisitive society, a conflict of values inevitably occurs. The age-old concept of values of judging people by what they are rather than what they have crumbles and people easily succumb to corruption. This apart, the rising cost of living and the wide gap between real wages and the opportunities to make quick money encourages corrupt practices among public servants and businessmen. Besides, Indian society tolerates amassing of wealth and it is seen as a symbol of competence. Other reasons are consumerism and desire for an ostentatious lifestyle and evil social practices like dowry and pressure of payment for education.

The Santhanam Committee constituted by the Central government has identified certain procedural causes of corruption. These are: red tape and administrative delay; unnecessary regulations; scope of personal discretion; cumbersome procedures; scarcity of goods and services and lack of transparency. Thus, we have a situation where on the one hand enterprising businessmen are ready to pay "speed money" and on the other civil servants agree to exercise discretion, not infrequently, for ulterior motives. Other reasons for corruption are where officers on behalf of the State engage private companies to perform specific tasks or public works or provide services and these companies, in collusion with officials, indulge in corrupt practices such as overcharging, providing low quality work, etc. Secondly, wide discretionary powers conferred to people with specialized skills and knowledge as in the field of defence projects can lead to corrupt practices. Of late, a number of such scams have unfolded such as Bofors, HDW Submarines, defence purchases, etc. Thirdly, lack of transparency, unclear, ambiguous and technically complicated regulations lead to corruption, as the public is unable to exercise effective control.

Corruption breeds a distrust of public institutions; it undermines ethical principles by rewarding those who are willing and able to pay bribes, and hence perpetuates inequality. Money laundering becomes

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lucrative and links are established between corruption and organized crime. Illicit activities invariably rely at some point in time on the support of corrupt public officials. Sometimes, organized criminals acquire such great power that they are in a position to undermine and destroy institutions, with dire consequences for democracy and the rule of law. Moreover, globalization and the changing structure of trade, finance, communications and information has generated an environment in which corruption is no more confined to national boundaries. It is operating increasingly across borders and, in many cases, is transnational and international in character. Criminal organizations have adapted corporate-like structures to criminal activities, employing highly skilled manpower and mechanisms to assist in tax evasion, money laundering and concealing income.

Corruption may be seen at various levels. It may be present at political levels, in the corporate sector and amongst the bureaucracy, and may also be responsible for the criminalization of politics. For most political parties, winning the elections becomes a sole obsession and increasing election expenses are often stated as a major cause for political corruption. In addition, an expensive and lavish lifestyle is the product of a consumerist culture and politicians also form part of the same culture. In the last few years, the press has been replete with reports of scams and scandals. Certain Chief Ministers of States and Union Ministers have had to resign on account of being legally charged with corrupt practices. The Bofors scam, Bihar's Fodder scam, purchases by the Department of Telecommunications, Jain Hawala Case, Lakhubhai Pathak Case, various land grab cases, HDW Submarine case and certain defence purchases have been widely reported in the press and are now the subject matter of judicious scrutiny. There is a widespread perception that corruption in contracts, commodity imports, international financial transactions and violations of the Foreign Exchange Regulation and Income Tax Acts has also increased.

Political corruption has very high visibility, and it makes sensational news. Corruption in the corporate sector is no less: only it makes less news. According to a report of the International Monetary Fund, a lot of capital has been deposited in foreign banks. Basically, concealment of income, evasion of taxes and duties, black-marketing, rigging of share prices, manipulating the stock market and other such practices have led to smuggling and money laundering. In India, a number of scams have recently been reported in the press, notably the Harshad Mehta case (rigging of share prices), ITC case (prosecution for foreign exchange regulations), Reliance Industries (official patronage and manipulation of customs duties), MS Shoes scam (manipulation of the stock exchange) CRB scam (securities scam), etc. Such trends have been associated with the generation of a parallel black economy and loss of a huge amount of revenue to the government. The business-politics nexus is found to be implicit in the very nature of things, as it works to the mutual advantage of both parties.

Whereas mega corruption in high places makes big news, it is the lower level graft that really hurts the common man. And that is where bureaucratic corruption comes into focus. At the countryside level, corruption may exist in departments maintaining land records or those disbursing agricultural loans or in bribing the police to settle petty brawls and disputes. In towns and cities, corruption in the form of evasion of income and other taxes is more high profile as it concerns a higher income strata and the clout of the officials lies in the tremendous discretionary powers vested in them. Corruption in the excise and customs department means a great loss to the central revenues. Smuggling of gold, drug trafficking, undervaluation and evasion of excise duties are the common modes of corruption in this sphere.

In many countries, a sizeable proportion of higher-level civil servants are believed to be either corrupt on their own or act as accomplices, conduits or agents for corrupt Ministers. At lower levels of bureaucracy, corruption mostly takes the form of speed money for expediting approvals and for providing (or not withholding) legitimate services (e.g., in utilities such as telephones, electricity boards and civic services). An interlocking of corruption exists at various levels of the government hierarchy – elected politicians, higher bureaucracy and lower bureaucracy. Criminalization of politics begins with politicians seeking the assistance of criminals, in particular to fight elections. This means the use of 'money power' and 'muscle power' by politicians on the one hand and aiding and abetting crimes and sheltering of criminals on the other, which in turn leads to politicization of the administration, particularly of the police and election of persons with criminal records and their consequent occupation of places of honour and status.

Amongst Indian legislation, The Prevention of Corruption Act, 1988 has been enacted to consolidate the law relating to the prevention of corruption. Various governmental institutions have been established to deal with corruption. The Administrative Vigilance Division in the Ministry of Home Affairs was established in

1965. The Delhi Police Establishment Act came into force in 1946. The Special Police Establishment has become a part of a bigger organization, the Central Bureau of Investigation. The Central Vigilance Commission has been set up in the Centre. Similar bodies have been set up in the States. The main idea was to have an external independent and impartial body to look into the allegations against government officials and thus inspire public confidence.

The Central Vigilance Commission set up in 1964 acts as the apex body for exercising general superintendence and control over vigilance matters in administration and probity in public life. It is governed by the Central Vigilance Commission Act, recently enacted on 11th September 2003. It is an Act to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto. The Commission consists of a Central Vigilance Commissioner and two Vigilance Commissioners. The Commission can undertake an inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper or corrupt purpose; or cause such an inquiry or investigation to be made into any complaint of corruption, gross negligence, misconduct, recklessness, lack of integrity or other kinds of mal-practices or misdemeanours on the part of a public servant. The Commission tenders appropriate advice to the concerned disciplinary authorities in all such matters. It also exercises superintendence over the vigilance administration over various Ministries and corporations of the Central government. Proceedings before the Commission are deemed to be judicial proceedings.

The Central Vigilance Commission has two Chief Technical Examiners to advise the Commission in all technical and contractual matters. The Chief Technical Examiners conduct intensive examination of all types of works and contracts under their purview. During the course of such examinations, a number of irregularities and lapses in the award and execution of works are observed such as lapses/irregularities in awarding contracts, defective contract conditions and clauses, overpayment made to the contractor, execution and acceptance of sub-standard work, infructuous and avoidable expenditure, etc. These are brought to the notice of the Chief Vigilance Officers for suitable corrective action. The role of the Chief Technical Examiners is not limited to detection of malpractice. They may also suggest preventive measures in certain areas as a safeguard against malpractice or corrupt practices in order to plug loopholes in procedure/rules, regulations and to improve the systems in organizations so as to prevent a recurrence of such lapses. In cases where serious irregularities or negligence are observed, they are referred to the Chief Vigilance Officer for detailed investigation.

The Chief Vigilance Officers in Central government Ministries and corporations decide upon the existence of a vigilance angle in a particular case, at the time of registration of the complaint. Generally a vigilance angle is characterized by:

- (i) Commission of criminal offences like demand and acceptance of illegal gratification, possession of disproportionate assets, forgery, cheating, abuse of official position with a view to obtaining pecuniary advantage for self or for any other person; or
- (ii) Irregularities reflecting adversely on the integrity of the public servant; or
- (iii) Lapses involving any of the following:
 - (a) Gross negligence;
 - (b) Recklessness;
 - (c) Failure to report to competent authorities, exercise of discretion/powers without or in excess of powers/jurisdiction
 - (d) Cause of undue loss or a concomitant gain to an individual or a set of individuals/ party or parties; and
 - (e) Flagrant violation of systems and procedures.

Today the Public Sector Undertakings in the country play a significant role in the economic as well as social development of the country. Further, the spectrum of the public sector ranges from a monopolistic nature like internal air traffic, life insurance, etc. to highly competitive fields like textiles and banking. These undertakings are not regarded merely as large commercial concerns but have, in varying degrees, wider objectives than commercial concerns in the private sector. They deal with taxpayers' money and are

therefore accountable to Parliament. They are subject to public criticisms and criticisms in the press. Unlike the private commercial organization where individuals count more, in these public undertakings, systems have to work more than individuals. Under such circumstances, there is a need for a strong vigilance organization in the PSUs with a set of rules to regulate the conduct of the employees of these undertakings.

Vigilance has to be looked upon as one of the essential components of management. The objective of vigilance is to ensure that the management gets the maximum out of its various transactions. In the field of purchases, it should get quality products at competitive rates. In the field of sales, it should get the maximum realization for its products at the minimal selling cost. In the field of personnel, it recruits the best talented people and keeps the morale of the people high. Likewise, in any one of its transactions, management should endeavour to get the best.

Vigilance and Anti-corruption Bureaus are established in all State governments. The State Vigilance Bureau is the main agency of the State to deal with cases involving corruption. The Bureau conducts investigation/enquiries into the following types of allegations involving public officials, including those working in the public sector undertakings of the State government:

- (i) Criminal misconduct of public servants as defined in the Prevention of Corruption Act 1988.
- (ii) Dishonest or improper conduct or abuse of power by public servants.
- (iii) Gross dereliction of duty or negligence.
- (iv) Misappropriation of public funds.
- (v) Amassing of wealth disproportionate to known sources of income.
- (vi) Misuse of public money or property.

Besides conducting investigations into vigilance cases, the Bureau also conducts vigilance enquiries, confidential verifications and surprise checks. The Bureau also collects intelligence about corrupt officials and maintains dossiers on them. Generally, the Bureau is headed by a Director who is of the rank of Director General of Police. The Director is assisted by Inspectors General of Police and other police officers. The field formations are at division level and district level. Besides executive staff, the Bureau has legal and technical staff to assist them in the investigation of cases.

There are also a number of special laws regulating customs, excise, taxes, foreign exchange, narcotics, drugs, banking, insurance, trade and commerce and export and import. Some of the existing legislation provides for confiscation of the proceeds of crime. The Directorate of Revenue Intelligence compiles yearly information regarding the number of seizures made by the Customs officials, the total value of the seizures and the nature of commodities seized. For instance, 38,998 seizures valuing about 10,197 million rupees were made in 2001. The nature of the commodities seized by customs included gold, silver, electronic goods, narcotic drugs, machines, fabrics/yarns/silks and others. Similarly, the Enforcement Directorate conducted 295 raids and searches in 2001 and seized and confiscated currency as well as imposed fines after registering cases under the Foreign Exchange Regulation Act. The Central Board of Direct Taxes also conducted 5,321 searches in 2001 and recovered about 5,123 million rupees. The Directorate General of Foreign Trade has, similarly, registered cases for offences under the Export and Import Act. The Central Bureau of Investigation and State Vigilance Bureaus of various state governments register cases and arrest persons under the Prevention of Corruption Act. During 2001, the CBI registered 858 cases and arrested 197 persons whereas the State Vigilance Bureaus registered 2,990 cases and arrested 3,223 persons under this Act.

Corruption adversely affects economic performance, undermines employment opportunities, and clouds prospects for poverty reduction. Petty corruption raises the cost of engaging in productive activities. Its burden falls disproportionately on poor people. For those without money or connections, petty corruption in public health or police services can have serious consequences. Corruption affects the lives of poor people through many other channels as well. It diverts public resources away from socially valuable goods, such as education and infrastructure investments that could benefit poor people like health clinics, roads, etc. Instead, it tends to increase public spending on capital-intensive investments that offer more opportunities for kickbacks, such as defence contracts. It lowers the quality of infrastructure, since kickbacks, are more lucrative on equipment purchases. Corruption also undermines public service delivery. Where corruption involves the transfer of funds outside the country, it seriously undermines economic development. The way funds are allocated gets distorted, foreign aid gets reduced and productive capacity gets further weakened.

Corruption is often tolerated because issues like prices of food grains, drinking water, and employment rank higher in the voter's priority. The voter considers all parties to be equally corrupt, the only difference being that some have been found out and exposed while others have not yet been exposed. Secondly, a complicated system together with red-tape leading to delays in many public offices makes the common man consider that paying a bribe as speed money is the easy way out. Voters are not bothered much about corruption at higher levels but they are more directly and visibly affected by the corruption at the cutting edge level of administration which they experience everyday.

The Central Vigilance Commission has brought out 'The Citizens Guide to Fighting Corruption,' which, according to the Central Vigilance Commissioner, "contains the distilled essence of the strategies evolved so far to fight corruption and the principles that can be adopted (by) every patriotic citizen of India who wants to fight corruption". Corruption cannot be fought only by individuals or by specialized agencies like the Central Vigilance Commission, the CBI or by Government Anti-Corruption Bureaus. It has to be a fight at all levels of society. Corruption is a major challenge confronting India, it is affecting social and economic growth, it is anti-poor and affects the growth of an equitable and just society and that people at large, and not just agencies, have to be sensitized to its evil effects.

The World Bank Report of 1997 says, "Incentive for corrupt behaviour arises when public officials have wide discretion and little accountability". The World Development Report on Poverty 2000-2001 states that the state will deliver more effectively to all its citizens, but to poor people in particular, if public administrations implement policies efficiently and are accountable and responsive to users, corruption and harassment are curbed, and the power of the state is used to redistribute resources for actions benefiting poor people. Streamlining bureaucratic procedures, simplifying tax systems, eliminating excessive regulations, privatizing state-owned enterprises and motivating public servants can help reduce the opportunities and scope of corruption. Another important measure is disseminating information on budget allocations and spending which enables people to hold civil servants accountable, reducing inefficiency and corruption. And community participation and monitoring can keep it in check.

Accountability is necessary for good governance. This is possible through transparency in operations. Hence transparency in public life demands greater access to information, rules and regulations. Transparency in government is possible if there is freedom of information and the citizens have access to information. Recently several States have adopted the 'Right to Information Act' which empowers any person desiring information to make an application to the competent authority asking for relevant information. The competent authority is bound to provide the information within the time frame specified unless the same is refused on valid grounds. The Delhi Government for instance has enacted the Delhi Right to Information Act, 2001. It makes provision for securing information as a matter of right, barring some exemptions. The citizens can file an application with the competent authority of the concerned Department along with a fee and get information within 30 days. In case the information cannot be given, then a rejection letter with cogent reason has to be issued.

With the advancement of and use of information technology in day-to-day life and even in governmental operations, speedy processing of information not only reduces the scope of corruption but also improves the quality of service to the citizens. The CVC has recommended that in addition to publicity of tenders through newspapers, trade journals and providing tender documents manually or through the post, etc., the complete bid documents along with application forms shall be published on the web site of the organization. In the state of Andhra Pradesh, in the registration department, the use of IT has reduced the processing of papers for the transfer of property from a couple of weeks to about half an hour. Corruption can be reduced through increased communication between civil servants and their clients. In Bangalore a "report card" which provides citizen's views on public services in the city shows how a public feedback mechanism can make public agencies more accountable to their clients.

Corruption flourishes because there are people in power who benefit from the present system. In India, the number of persons who actually benefit may not be more than 50 million out of over 1000 million. Unfortunately those who benefit from power are also those who have to initiate changes to check corruption. It is, therefore, important for people to play an active role in this regard. The public interest litigation is a route that can be used to approach the courts and thereby make the administration change policies or initiate action to check corruption. Citizens may approach agencies such as the Central Vigilance Commission and

Lok Ayuktas. The electronic and print media can be effectively used in shaping public opinion. NGOs can play an active role in taking up individual cases for fighting corruption or bringing about systemic changes. Members of the public can also report about the activities of public servants who are found to be living beyond their means. In Maharashtra, vigilance cells have been formed in many towns by bringing together interested groups to comply with the requirements of law and take up the problem with the officers concerned. Around 45 organizations and departments of the Government of India have also published citizens' charters, which explain what services these departments are going to provide for the citizens.

The 'Guide' suggests that NGOs can undertake documentation and ranking of the corruption perception index of government organizations as one of their activities. Transparency International has adopted a methodology for bringing out the Corruption Perception Index (CPI). The advantages of publishing the CPI are many. First, they provide an informed basis for a debate on corruption. Secondly, they encourage honesty by publicly naming and hence shaming dishonest officers. In fact this activity has commenced in some states.

Ethics should form part of the education system and children in the schools should be mobilized to create a social climate for making corruption unacceptable. Schools can reach large numbers of children, and through them, their parents and the community at large. The use of media for mobilizing the people against corruption can also be part of this effort. Praja, an NGO of Mumbai, has devised a unique system for citizens to ensure redress of citizens' grievances through an online complaint registration system. The complaint is sent to the authority concerned and to Praja. Both Praja and the municipal authorities hold meetings regularly regarding these complaints.

According to Transparency International, a non-government organization in Berlin, which publishes the Corruption Perception Index of countries annually, India is ranked at 72 out of 91 countries in 2001 in the order from the least corrupt to the most corrupt. In this perspective, our fight against corruption is an on going one. It has been estimated that "if the corruption level in India comes down by 15% the GDP growth will improve by 1.3% and investment will go up by 2.9% of the GDP".

Although corruption has become deeply entrenched, yet it is not impossible to get out of the corruption trap. A strong political will and commitment to a clear anti-corruption agenda is required. Efforts have to be made in different directions to reduce corruption. Certain changes are required in the legal framework such as suitable modification of Indian Official Secrets Act in order to develop greater transparency in public dealing. The promulgation of Corrupt Public Servants (Forfeiture of Property Act), 1999 will ensure real punishment of corrupt public servants by way of confiscation of property. Similarly, the appointment of independent ombudsmen by major public utilities for redress of grievances and development of Codes of conduct on the basis of the International Code of Conduct for Public Officials can be considered. In our fight against corruption, good practices need to be adopted and encouraged. Strengthening of accounting standards and practices, establishing of accountability in administration and fostering responsibility at lower levels through decentralization, deregulation and elimination of unnecessary controls and developing transparency in the adoption of discretionary practices, tendering and procurement are certain such measures. Finally, and most importantly, healthy social values encouraging honesty in word and deed need to be inculcated through an active involvement of the family, the school and the community.

The United Nations has done appreciable work in this direction. In its resolution 51/59 the General Assembly has adopted the International Code of Conduct for Public Officials and recommended it to Member States as a tool to guide their efforts against corruption. In its resolution 51/191, the Assembly has adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted within the framework of the Organization for Economic Co-operation and Development (OECD) in 1997 and the Eighth International Anti-Corruption Conference also adopted the Lima Declaration against Corruption that year. These instruments provide a comprehensive framework for combating corruption by evolving strategies consonant with indigenous conditions.

If we want our countries to become economies in which all citizens will be able to enjoy their rights and a good quality of life, fighting corruption is the most important need. It is the responsibility of both the government and the citizens together to respond to this need.