DESIGNING AN ANTI-CORRUPTION STRATEGY FOR CONTEMPORARY INDIAN ADMINISTRATION

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ABSTRACT

India, the world's largest democracy, can boast of a vibrant political culture, vigilant press and a politically conscious civil society with an impartial judiciary. Yet the most disheartening fact of Indian society is the rising tide of corruption in almost all walks of life including the Indian administrative system. Although the issue of administrative reforms has received continuing attention in India both at the national and the state levels during the last six decades, corruption is eating into the vitals of the administrative system. It is therefore extremely essential to reform the administrative system by properly designing an anti-corruption strategy to control corruption. In order to answer some of the serious questions like what needs to be done to reaffirm the trust of the people in the state organizations like the bureaucracy or why the existing anti-corruption vigilance institutions have failed to control the rising tides of corruption in most public institutions and in the context of globalization what anti-corruption reforms need to be implemented, one needs to first shed light over the indigenous causes that have encouraged the growth of corruption in Indian administration. Thus the article brings to light the different indigenous causes that lead to the growth of corruption in Indian administration. It also analyzes the existing anti-corruption laws like the Prevention of Corruption Act, 1988 and working of the major vigilance institutions like the Central Vigilance Commission and Central Bureau of Investigation to identify the loopholes that are giving rise to corruption. On the basis of such weakness the article suggests a new anti-corruption strategy to contain corruption in contemporary Indian administration.

Keywords – Administrative culture, central bureau of investigation, single directive system, social auditing

INTRODUCTION: REFORMING THE INDIAN ADMINISTRATIVE SYSTEM

The ancient Indian sage Tiruvalluvar had observed in the sacred text *Tirukural* (Translated by Gurudeva, H.H. Sivaya Subramuniyaswami, 199: 64) as follows:

"The scepter-wielding king who requests a gift is like the lance-bearing robber who demands, 'Give me all you have.'" (Verse 553)

This age-old prophetic observation has become very relevant in twenty-first century India where the public trust of the ordinary citizens in public institutions is gradually getting eroded due to corruption. Unfortunately, of all the problems that India is facing today, corruption is perhaps the most lethal of them all that has plagued the Indian polity, society, economy and to say the least the Indian administrative system. Thus there is an urgent need to initiate administrative reforms to bring prevent the erosion of the trust of the ordinary citizens in the state institutions like the bureaucracy. This can be achieved only by reorienting the administrative machinery into an efficient and accountable apparatus for public service delivery built on the ethos of integrity, impartiality and client responsiveness.

On the one hand corruption strikes fear and guilt in the heart of a God-fearing average Indian on the other it tempts the same individual to engage in corruption while performing his duties in public office. The same person found propagating the values of ethics to his son would be seen engaging in unethical activities in the public domain as a civil servant. This dilemma or dichotomy within the Indian society perhaps lends corruption a unique character. Moreover in defining or understanding the true nature of corruption in India one must also keep in mind that unlike the west, "Bhrashtachar" or corruption in India society is still a highly value laidned concept and has a strong moral undertone. It is still defined in moral terms especially at the civil society level in terms of traditional Hindu concepts like "Dharma", "Paap and Punya", variously interpreted as morality, sin and righteousness. Adherence to Dharma implies abstinence from moral corrupt practices, and need not regard the legally barred actions as corrupt. Therefore, one must remember that even in 21st century India 'Administrative Corruption' has a heavy moral undertone attached to it.

In this context it is very essential to first define administrative corruption in the Indian context. The term administrative corruption has been defined in different ways by the western scholars. Unfortunately, a serious problem arises when one tries to define administrative corruption in developing non-western societies like India, where a different type of social norm govern the standard of political and bureaucratic behavior. In view of the comparative advantages and disadvantages of the various approaches in defining administrative corruption, one can regard the legal approach to be the most suitable to define administrative corruption in India. Legal approach does not suffer from any temporal weakness and at the same time carries with it the force of legal and constitutional sanctions. Thus for the sake of convenience, one should follow the legal definition of corruption as provided by the statutes, in India.

The British colonial government provided us with a legal definition of administrative corruption in section 161 of the Indian Penal Code. Section 161 of the Indian Penal Code, (as stated in the Santhanam Committee Report, 1964; Section 2.1: 5) has identified the most common forms of corruption which are as follows:-

Whoever, being or expecting to be a public servant, accepts, or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to

show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the central or any state government or Parliament or the Legislature of any state or with any public servant as such, ……

However this section of the Indian Penal Code was repealed and currently corruption has been brought under Section 7 of the Prevention of .Corruption Act of 1947 which was amended in 1988. In post-independent India the formation of Santhanam Committee on Prevention of Corruption in 1962 can be regarded as a watershed in administrative history of India. This Commission elaborately reviewed the issue of corruption in Indian administrative system. It also came up with a definition of corruption (Santhanam Committee Report, 1964:5):

> In its widest connotation, corruption includes improper or selfish exercise of power and influence attached to a public office or to the special position one occupies in public life.

It is now common knowledge that corruption has vitiated India's public life like a cancer spreading over a human body. In order to answer some of the serious questions like what needs to be done to reaffirm the trust of the people in the government organizations like the bureaucracy or why the existing anti-corruption vigilance institutions have failed to control the rising tides of corruption in most public institutions and in the context of globalization what anti-corruption measures need to be implemented to mitigate this problem, one needs to first shed light over the indigenous causes that have encouraged the growth of corruption in Indian administration.

Corruption in India can be compared to the ten- headed mythical daemon King Ravana of Ramayana, who could give rise to new heads when his old head was cut-off. Corruption in Indian administration arises from a wide range of issues which perhaps explains the uniqueness of Indian form of corruption. Thus in order to understand the factors behind the growth of corruption in Indian administration we must pay heed to the observations made by Caiden (2007: 42):

> Just as there are many varieties of corrupt behavior, so there are multitudinous factors contributing to corruption …. So many explanations are offered that it is difficult to classify them in any systematic manner.

Broadly the growth of corruption in Indian administration can be attributed to social, economic, structural, legal and political causes.

SOCIAL CAUSES OF CORRUPTION

Traditional administrative culture: Indian bureaucratic culture has a rich history which dates back to 2nd century B.C. and to the medieval times. It is often seen that breach of formal laws and regulations is due to the deep-rooted patterns of behavior which are based on traditional social values and administrative customs. For instance, the Mughal court practice of giving expensive customary gifts known as NAZRANA or the system of giving money after getting government contracts often known as DASTOORI continue to generate a lot of corruption in Indian administration even in

modern times. PAIRAVI which was another well established Mughal courts practice (by which ordinary people would allure influential bureaucrats and ministers to sell their influence to get decisions or judgments' passed in their favour) remain a relevant operating practice in modern Indian bureaucracy. Another important Indian social value is to show "Lihaz" or regard to others according to their age, sex, wealth and social status. This system of Lihaz or consideration sometimes militates against the principle of equality before law and equal enforcement of law and breeds corruption in administration. These bureaucratic customs of the medieval times which are contrary to the requirements of modern bureaucracies often generate two sets of contradictory values in the mind of the Indian bureaucrats. Having been trained in the norms of modern bureaucratic ethics they publicly display values like impartiality, rule orientation and neutrality. But privately they subscribe to traditional Indian social and bureaucratic values. Such values give rise to different forms of corruption like nepotism and patronage. Thus Prof O.P.Dwivedi (1967:249) had observed that:

> The same person found attacking publicly the prevalence of corruption in administration will resort to unethical activities privately because he is torn between two different sets of ethics. This dilemma – living in two different worlds of norms – creates an identity crisis for a civil servant. This identity crisis will continue until the...[P]revalence of these non-rational norms on the basis of which these administrations operate.

Ascriptive identity: In developing countries like India, primary social institutions like family, caste, religion, ethnic identity still remain very dominant. Modernization, industrialization and even globalization have not been able to sway the traditional loyalties of an Indian. The family, caste associations and religious groups still continue to have the greatest call on individual loyalties of even the modernizing elites in India of which the bureaucracy is also a part. Gunner Myrdal (2005:51) observed that loyalty to these less inclusive groups like family, caste, ethnic, religious or linguistic community –"invites the special type of corruption we call nepotism and tends in general to encourage moral laxity." For instance in India the joint family is the most important social institution which is based on a elaborate system of mutual obligations. An individual usually asks for help from his uncles or cousins when he is unemployed and they usually help him out. Thus when he attains a place of importance in society, like a civil servant his relatives naturally have first claim on his support. It is due to such a mindset that fixing jobs or giving licenses to family members or people belonging to the same caste is not regarded as nepotism in India. O.P. Dwivedi (1967: 248) had commented that:

> Nepotism, therefore assumes a form of strict family obligation...[T]o resist bribery and not resort to nepotism may very well constitute avoidance of the responsibilities of customary citizenship.

Public attitude towards bureaucratic corruption: Public attitude towards social problem, their seriousness towards them and their will to uphold the value systems go a long way towards building a great nation. Public attitude is conditioned by its social values, religious beliefs and social customs of a particular country. Unfortunately, in India there is a lack of a strong public opinion and people generally remain mute spectators which increases the level of corruption in public sphere. The Indian social values of tolerance, forgiveness and indifference and the failure to channelize a strong public resentment

against corrupt government officials have encouraged corruption in the Indian administrative structure. In this context the observations made by A.G.Noorani (as cited in Lall, 2007:189-190) regarding the term "AZHIMATI" is very important. Azhimati is a Malyalam term that denotes a sort of sensation that is very painful, but the body becomes so used to it that without the pain, the survival of the body looks impossible. Similar is the case with corruption which is like a very painful sensation but at the same time is very vital for Indian society without which the wheels of the government machinery would not move. Such a type of public attitude makes us more tolerant towards corruption. Ordinary people in India are afraid to incur the wrath of a powerful bureaucrat by agitating against corruption. According to B.R.Lall the typical middle class attitude of a "Majboor Rashtra" (helpless–nation) also encourages the growth of corruption. Under it everything that we do is under compulsion and not willingly. Thus if a public servant is corrupt it is again due to some compulsion. This public attitude of a helpless nation has wrought havoc and confused an average mind into thinking that all such aberrations are unavoidable and these high and mighty bureaucrats should be excused since they are helpless. Thus they have no one to blame or nothing to do because they deserve such a corrupt system. This type of a fatalistic and status quoits public attitude in India not only breeds but also justifies corruption. Thus O.P. Dwivedi (1967: 249) pointed out that:

> La Palombara found in Italy that the public attitude toward bureaucrats is a combination of disdain, hostility, frustration, and helpless resignation. To a great extent the Indian public holds a similar view toward their government officials.

ECONOMIC CAUSES OF CORRUPTION

Poor Salary of government servants: Leslie Palmier, in his comparative study of the control of bureaucratic corruption in Hong Kong , India, and Indonesia identified poor salaries as one of the important factors giving rise to corruption in these countries. Palmier had pointed out that (as cited by Quah, 2002: 515)

> If the official is not to be tempted into corruption and disaffection, clearly there is an obligation on the government to provide or at least allow such benefits as will ensure his loyalty; one might call it an implicit contract.

He concluded by saying that "adequate pay" was an "essential ingredient in reform.

The civil servants in India especially at the Group A level are not poorly paid at all. But the salary differential between top of the line bureaucrats and lower level civil servants breed resentment and frustration among the latter. With inflation eating into the real income of fixed salary earners like government servants, and with no other alternative source to supplement their income, they are forced to resort to corruption. The periodic increase in dearness allowance is not enough to cover the ever increasing prices of essential goods and services. The desire to have sufficient savings at the time of retirement also aggravates the incidence of corruption. Another factor giving rise to the burgeoning scale of corruption in Indian bureaucracy is the high salaries of their corporate counterparts. Today in the age of liberalization, an average ranking corporate executive gets much more remuneration and fringe benefits than even the highest ranking bureaucrat (Secretary to Government of India) get at the fag end of his career. In short, as observed by Banerjee (1996:110):

...if bureaucrats are paid a high enough wages, even a small chance of losing their jobs would discourage them from being corrupt." On the other hand, if the real salary of civil servants decreases drastically, "even the most rigidly honest bureaucrats will be tempted to go beyond the law to preserve their standard of living.

Private re-employment after retirement: The salary of government servants in India are not very high and there is hardly anything left to save for life after retirement. The social security system in India is not very well developed unlike the west. Thus there is a strong temptation among the government officials to grant illegal favors to corrupt politicians and bureaucrats in lieu of re-employment after retirement. The Santhanam Committee (1964:199) had made a very valuable observation in this regard:

It is generally believed that such employment is secured on a quid pro quo basis for favors shown by government servants while in service. It is also feared that highly placed government servants who accept such employment after retirement may be in a position, by virtue of their past standing, to exercise undue influence on those in service who might have been their colleagues or subordinates. The fact that some of these retired government servants who have accepted employment with private firms in Delhi and perhaps operate as 'contact men' has further heightened these suspicions.

Globalization and corruption: The New Industrial Policy of 1991 heralded the era of globalization, liberalization and privatization in India. Due to liberalization our restrictionist economic regime was gradually dismantled and a free market economy started growing. Gradually over time government controls and regulations were reduced and multi national corporations and foreign investors were invited to play a much more progressive role in the Indian economy. Due to liberalization and privatization the Indian economy was gradually freed from the vice- like grip of the Indian administration known as Permit-License Raj. But in spite of such reforms the bureaucrats and ministers continued to enjoy their discretionary powers (due to the process of privatization) which gave them ample scope to indulge in corruption. Privatization opened new opportunities for not only the private capitalists and foreign investors but also for the corrupt ministers and bureaucrats to indulge in corruption. In the wake of globalization large foreign multi-nationals payed huge bribes and kick-backs to gain government contracts, secure access to economic policy makers and government officials and avoid bureaucratic red-tape related to trade and investment. Often these companies were able to recoup their outlays through tax deductions. The voracious appetite of MNC's for new business enables public officials to demand and receive personal favors in the form of monopoly dealership, kickbacks and grafts. Disinvestment process has also generated a lot of corruption. It was often seen that non-profit making PSU's were under-valued or even profit-making PSU's were branded as loss making or sick units and sold off to private investors. Often such transactions lacked any transparency and were done in a rough-shod manner without following the disinvestment rules. Thus Joseph Stiglitz (2003:58) had summarized the above scenario in the following words:

Perhaps the most serious concern with privatization, as has so often been practiced is corruption. The rhetoric of market fundamentalism asserts that privatization will reduce what economists call the "rent-seeking" activity of government officials who either skim off the profits of government enterprises or award con-

tracts and jobs to their friends …[I]n many countries today privatization is jokingly referred as "briberization". By selling a government enterprise at below market price, they could get a significant chunk of the asset value for themselves rather than leaving it for subsequent officeholders.

STRUCTURAL CAUSES OF CORRUPTION

The Corruption Prevention Department (CPD) of Hong Kong's Independent Commission against Corruption (ICAC) had identified (as cited by Palmier, 1985: 179-181) four important factors which lead to generation of corruption within the bureaucracy. The first factor is delay, which "provides both the opportunity to extort a bribe and the incentive to offer one, and is also an inevitable consequence of bureaucratic processes." Second, insufficient publicity "leads the public to believe that individual public servants have the opportunity to decide whether a particular law shall be enforced or who shall benefit from a public service, so creating a situation ripe for exploitation." The third factor providing opportunities for corruption is excessive discretion, which often results from "a well intentioned delegation of authority in order to expedite business." Lastly, the most important factor was the lack of supervision or accountability especially of junior officers who operate away from the head office.

Bureaucracy in India unfortunately suffers from all these structural defects. Like bureaucracies in most developing countries, India bureaucracy is a rigid hierarchical organization. It operates mostly on extreme centralization of the decision-making process and on the basis of rigid rules and regulations. The rigidity of an over-centralized decision- making structure often tends to delay official action in many cases. Departmental heads usually delay a decision rather than face the displeasure of their political bosses. As a result, those seeking to expedite transactions resort to speed-money and payoffs as a means of overcoming cumbersome regulations and bureaucratic indecision. In this regard the Santhanam Committee (1964:9-10) had made the following observation:

> It is believed that the procedures and practices in the working of Government offices are cumbersome and dilatory. The anxiety to avoid delay has encouraged the growth of dishonest practices like the system of speed money. Speed Money is reported to have become a fairly common type of corrupt practice particularly in matters relating to grant of licenses, permits, etc. Generally the bribe giver does not wish, in these cases, to get anything done unlawfully, but wants to speed up the process of the movement of files and communications relating to decisions. Certain sections of the staff concerned are reported to have got into the habit of not doing anything in the matter till they are suitably persuaded. …….Besides being a most objectionable corrupt practice, this custom of speed money has become one of the most serious causes of delay and inefficiency.

Apart from this, rule orientation and rigidity deters lower level civil servants from taking initiative, it stifles innovation and inhibits the development of leadership qualities among the bureaucrats. The Indian bureaucracy is designed in such a way that there is very little transparency within the organization which again breads corruption. Lack of transparency and access to information in the government departments lead to sale of information. Although India now has the Right to Information Act implemented since

October 2005, but the ground reality is that the vast majority of the poor and illiterate people across the country, especially residing in rural India are not yet aware of the presence or utility of such laws. Moreover, it is a matter of great concern that serious attempts are being made by one section of the bureaucracy to make this act in fructuous. Coupled with this is the fact that in a welfare state like India bureaucrats perform a vast array of functions as a result of which they enjoy tremendous discretionary power. There is ample scope that the bureaucrat acts outside the strict scope of law and propriety without the injured citizen being in a position to obtain effective redress. Absence of proper channels to enforce rules and regulations within the bureaucracy especially at the cutting edge level makes it all the more unresponsive and corrupt.

The Santhanam Committee Report (1964:109) had pointed out the same:

> Discretionary powers are exercised by different categories of Government servants all of whom are not endowed with a high sense of dedication and integrity in equal measure. There is scope for harassment, malpractices and corruption in the exercise of discretionary powers. While we recognize that it would not be possible to completely eliminate discretion in the exercise of powers it should be possible to devise a system of administration which would reduce to a minimum, even if there is a certain seeming loss of perfection, the need for exercise of personal discretion consistently with efficiency and speedy disposal of public business.

Blunting of anti- corruption institutions: - There are many vigilance institutions in India to fight against corruption. Unfortunately these institutions have been deliberately blunted. Two major anti-corruption vigilance institutions in India are the Central Bureau of Investigation created in 1963 and the Central Vigilance Commission created in 1964. The charter of the premier investigation agency of India, namely the Central Bureau of Investigation (C.B.I.) has been deliberately widened from time to time to deal with various types of cases not connected with corruption. With minimum number of investigating officers of the CBI spread all over the country, the CBI hardly makes a dent on the level of corruption especially when cases may take years of trial before being decided. Moreover in recent times, the CBI is getting highly politicized and is often used for political witch-hunts rather than prevention of corruption. Moreover, several attempts have also been made to render the C.V.C. ineffective. In 1989 the Government of India passed a directive known as the Single Directive No.4.7. (3) to the CBI. According to this directive the officers of the level of Joint-secretary and above could not be investigated for corruption by the C.B.I. without the special permission or sanction of the Central government. However the fact is that, a criminal is a criminal whether he is above the level of the Joint- secretary or not. Therefore this directive was struck down by the Supreme Court of India in the famous judgment of the Vineet Narain vs Union of India, (1998) 1SSC 226 case as being violative of Article 14 (equality before law) of the Constitution. However this single directive has been reintroduced under section 26 of the Central Vigilance Commission Act, 2003 which renders employees of the Central Government at the level of the Joint Secretary and above immune from any inquiry into offences allegedly committed by them, except with the prior approval of the Central Government. Such an act is against the very spirit of the Indian constitution and is a deliberate attempt on the part of the government to render the vigilance machinery ineffective. Apart from this there are some procedural formalities which need to be followed in corruption cases against senior government officials. The Vigilance Chief is not permitted

to present charge sheets without clearance from the government, and if the accused government servant is close to the powers that be, the permission is either delayed or even altogether withheld.

LEGAL CAUSES OF CORRUPTION

Low rates of punishment: When the concept of an Indian Civil Service was ushered in by the British Government, a special provision was made to protect the tenure and service conditions of these officers, and limit disciplinary action against them. Later on when other All India Services were created similar guarantees were made available to those officers through the 1919 and 1935 Government of India Acts. These provisions were retained under the 1950 Constitution of India which provided constitutional guarantee to civil servants. It is due to these constitutional guarantees that corruption has become endemic in Indian administration.

Very few public servants especially at the higher levels ultimately get punished due to corruption. This is mainly due to the fact that civil servants in India get certain special constitutional immunities under Article 310 and 311 of the Constitution of India. For instance (as cited in the Moily Committee Report on Ethics in Administration of 2007: 89) Article 311(2) (1) provides that

> ...no person who is a member of the civil service of India or an all-India or civil service of a state or holds a civil post under the union of a state shall be dismissed by an authority subordinate to that by which he was appointed...No such person, as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given an opportunity of being heard in respect of those charges.

This kind of special bureaucratic immunity assures a measure of security of tenure and safeguards against arbitrary dismissal of civil servants in India which are many times misused to give protection to corrupt civil servants.

Thus O. P. Dwivedi and R. B. Jain (1988:211) pointed out:

> This interpretation of Article 311 has imposed further restrictions on the manner of inquiry, particularly when an accused can easily blame the inquiring officer for prejudging the issue and being unfair. Even when an inquiry is held, the accused person continues his employment (although under supervision), uses all available legal means to protract the case, and plays the judicial system to the hilt.

As far as departmental proceedings against civil servants are concerned the reality is not very encouraging. The cardinal principal of departmental enquiry is that it should be initiated and completed as quickly as possible. As a result it has been freed from the fetters of laws like the Indian Evidence Act of 1872. But in practice departmental proceedings against senior public bureaucrats drag on indeterminably and generally end in either acquittal or minor punishments.

LOOPHOLES IN ANTI-CORRUPTION LAWS

The Prevention of Corruption Act, 1988: One of the most important and fundamental anti-corruption law in India is the The Prevention of Corruption Act, 1988 (43 of 1988). One major weakness of the PC Act of 1988 is that it does not distinguish between 'collusive' and 'coercive' corruption. Regarding the cases of collusive corruption, the Moily Committee (2007: 63) in its report on Ethics in Governance observed –

> Getting conviction in these cases is extremely difficult as both, the bribe-giver and the bribe taker colludes and is beneficiaries of the transaction. The negative impact of collusive corruption is much more adverse and the government and the society, at large, are sufferers. The Commission is of the view that "collusive" corruption needs to be dealt with by effective legal measures so that both the bribe-giver and the bribe-taker does not escape punishment. Also, the punishment for collusive corruption should be made more stringent. In case of collusive corruption, the burden of proof should be shifted to the accused.

Another problem related to the P. C. Act of 1988 relates to the fact that the Act does not define the term 'corruption'. It only lists offences such as bribery, criminal misconduct involving receiving gratification, misappropriation and the penalties for such offences from Sections 7 to 15. However experience of the past two decades shows that such an indirect definition of corrupt practices under the P. C. Act of 1988 is paradoxically restrictive and a whole range of official conduct, detrimental to public interest, is not covered by strong penal provisions. The Moily Committee (2007:62) in its Report on "Ethics in Governance" had observed that:

> "There is therefore need for classifying the following offences under the Prevention of Corruption Act:

- Gross perversion of the constitution and democratic institutions amounting to willful violation of oath of office.
- Abuse of authority unduly favoring or harming someone.
- Obstruction of Justice
- Squandering public money."

The Benami Transactions (Prohibition) Act, 1988: The law Commission in its 57th and 130th reports, recommended enactment of a legislation prohibiting 'Benami Transaction' and acquiring properties held in benami or (in pseudo-names). The wealth amassed by the corrupt public servants is often kept in 'benami' accounts or invested in properties in others name. Strict enforcement of the Benami Transactions (prohibition) Act, 1988, could easily unearth properties and make ill-gotten property accumulation difficult for corrupt officers. Accordingly, The Benami Transactions (Prohibition) Act, 1988 was passed in 1988. Unfortunately, in the last 22 years, rules have not been passed by the Government of India for the purpose of sub-section (1) of Section 5, with the result that the government is still not in a position to confiscate properties acquired by the real owners in the name of his benamidars. This clearly shows that when it comes to implementation, the law itself can be made counterproductive or not implemented at all. In this context both O.P.Dwivedi and R.B.Jain (1988:206) had remarked that

The various efforts of government leaders to curb corruption and to punish offenders are nothing but a tamasha (a show) ………Indeed, the situation in India today gives credence to Voltaire's notion that corruption is an evil that grows respectable with age.

POLITICAL CAUSES OF CORRUPTION

Any discussion of administrative corruption and an ethical framework for governance in a democracy like India must tough upon the issue of political corruption. One should not ignore the fact that bureaucratic morality is a reflection of political morality. Also there is no denying the fact that standards set in politics profoundly influence those in the bureaucracy. India was fortunate that high standards of ethical conduct were an internal part of freedom struggle. Unfortunately, ethics started eroding from politics right after independence and continues to do so after due to the following reasons:-

Election Funding: One of the factors behind the burgeoning scale of political corruption is the high cost of elections to the parliament and state legislatures. Elections have become an expensive business and consequently the political parties in India are exclusively focusing on the issue of fundraising by any means whatever. In this regard Madhav Godbole in his book "Public Accountability and Transparency – The Imperatives of Good Governance" (2003:83) had pointed out that according to the national election audit report prepared by the Election Commission for the year 1999-2000, on an average a candidate spent around Rs 83 lakhs as against the legal ceiling of only Rs 15 lakhs." Consequently, the question that is often raised is from where does this money come from?

A very common technique of sustaining such high election expenditures is to deliberately institutionalize corruption in administration. It is often seen that the ministers in charge of important government departments encourage, abet, and even hide corruption. They protect corrupt government servants and when exposed treat them leniently. Instead the courageous whistle-blowers are intimidated by the corrupt ministers and terrorized into silence. Corrupt politicians often depend on the malleable and unscrupulous civil servants to collect money for them. In lieu of such help the corrupt civil servants are handsomely rewarded through lucrative postings. Sometimes venal ministers go to the extent of misusing the state machinery to extort money from industrialists and businessmen. Stanley A. Kochanek (1987:1291) had observed that during the time of Mrs. Gandhi:

> Often representatives of trade and industry were called up ……and asked to produce specified amounts. Those who declined were threatened with possible raids by people of the Revenue Intelligence and Enforcement Directorate, which were now operating under the Cabinet Secretariat.

Thus corrupt politicians in India use malleable bureaucrats who in turn misuse their official position and powers to collect funds through corrupt means for the politician. Criminalization of our political system has compounded the problem of political corruption. According to the Vohra Committee Report (2002:472):

An organized crime Syndicate/Mafia generally commences its activities by indulging in petty crime at the local level, mostly relating to illicit distillation/gambling/organized satta and prostitution in the larger towns. In port towns their activities involve smuggling and sale of imported goods and progressively graduate to narcotics and drug trafficking. In the bigger cities, the main source of income relates to real estate – forcably (sic) occupying lands/buildings, procuring such properties at cheap rates by forcing the existing occupants/tenants, etc. Over time, the money power thus acquired is used for building up contacts with bureaucrats and politicians and expansion of activities with impunity. The money power is used to develop a network of muscle power which is also used by politicians during elections.

Thus the nexus between corrupt politicians, bureaucrats and criminals is fast eroding the trust of Indian citizens in government institutions.

Lack of political will: It is a great irony that corruption assumes such an important place during times of elections in India. Almost every political party cutting across the ideological divide includes eradication of corruption from public life into their election manifesto. Political Corruption becomes big emotive issues and sometimes elections are virtually fought on such issues like the 1989 General Elections where 'Bofors Scam' became a very important election issue. But the other side of the story is that all politicians cutting across party lines clearly lack the will to fight against corruption. This is borne out by the fact that India still does not have an institution to exclusively deal with the problem of political corruption. As things stand at present, there is no regular machinery like the institution of the Lokpal (Ombudsman) to probe into the corruption charges against ministers. Since the late 1960 the Indian Parliament has been toying with the idea of passing the Lokpal bill but it still remains a distant dream.

REFORMING THE INDIAN ADMINISTRATIVE SYSTEM

From the above discussion of the causes of corruption in Indian administration it is very clear that there are various causes of corruption in administration like social, economic, political, structural which induce corruption in the Indian bureaucracy. Although the degree of corruption varies, in sum it can be said that corruption can be attributed to almost anything. This makes a task of designing a comprehensive anti-corruption strategy all the more difficult. An analysis of the causes of administrative corruption in India makes it amply clear that corruption emerges from three different but often interconnected levels viz- the individual working in an organization, the organization itself and most importantly the external macro- environment, within which both the individual and the bureaucratic organization operate. In order to suggest a comprehensive anti-corruption strategy one must focus on all these three levels both individually as well as collectively.

First is the growth of corruption at the level of the individual. In this regard the Public Choice theorists view corruption as individual's bounded rational decision that leads to a predetermined outcome. Scholars including Robert Klitgaard and Susan Rose Ackerman claim that the public officials are corrupt for a simple reason: they perceive the potential benefits of corruption exceed the potential risks involved in corruption. In oth-

er words if the benefit of corruption minus the penalties is greater than the benefit of remaining honest, then the individual will rationally choose to be corrupt. However one must not forget the observations made by The National Institute of Law Enforcement and Criminal Justice of USA in 1978 (as cited by Joseph F. Zimmerman, 1982: 98):

> Corruption has three main components that are controllable and one that is not. The three controllable ones are opportunity, incentive and risk: the uncontrollable one is personal honesty. Many public servants over a long period of time have had the freely available opportunity to be corrupt, a large incentive to do so, and little risk of being found out if they did, but have refused because "it wouldn't be honest".

The personal incentive to become corrupt is ultimately a matter of personal choice which, in turn, depends on the individual's character and ethical values influencing his decision. Therefore while designing an anti-corruption strategy the focus should first be on development of the individual ethics in administration. In this context, corruption control in Indian administration should first focus on keeping the 'rascals' out and recruiting the honest dedicated people into the service. It is very important to recruit the "right" people in the first place before imparting any ethics training to them. To achieve this, the recruiting agency should concentrate on competency testing and reference checks through extensive background investigations. The candidates must also go through psychological screening. All these measures will help recruit the right candidates who will be more receptive to ethics training. Then the second stage of imparting ethics training or at least a briefing on ethics to the new recruits would commence. Apart from this, very often it is seen that an honest civil servant indulges in corruption due to systemic or organizational reasons. Therefore what is of equal importance is to provide in-service ethics training to government servants at regular intervals so that they remain motivated to fight against organizational corruption.

Apart from this, a number of above mentioned factors giving rise to corruption lead us to the assumption that the individual bureaucrat must also have the opportunities to be corrupt within the organization. This in turn depends on a number of factors like to what extent his official actions are controlled and monitored by his superiors, the frequency of his contact with the public, level of transparency and accountability in his organization and his discretionary powers in the organization. Here the issue of organizational corruption assumes importance. The traditional view about administrative corruption is that it is individual and therefore incidental. By punishing or dismissing a corrupt individual in an organization, corruption can be tackled. However a completely different view point has been put forward by G.E. Caiden and N.J. Caiden (1977:307) who were of the opinion that corruption is systemic in nature. Thus they have come out with a new type of corruption known as 'Systemic Corruption' which creates:

> ...a situation where wrong-doing has become the norm and the standard accepted behavior necessary to accomplish organizational goals according to notions of public responsibility and trust has become the exception not the rule. In this situation, corruption has become so regularized and institutionalized that organizational supports back wrong-doing and actually penalizes those who live up to the old norms...Systemic corruption occurs whenever the administrative system itself transposes the expected purposes of the organization, forces participants to follow

what otherwise would be termed unacceptable ways, and actually punishes those who resist it.

This type of organizational corruption is easily discernable in our Indian administrative system at present.

CONCLUSIONS

The underlining assumption of the approach described in this article is that certain types of group culture changes will lead to a new conception of culture that encourages and abates corruption. To make matters worse, the structural and procedural weakness make the government more inept to deal with the problem of organizational corruption. Once the organizational culture is corrupt, every person who comes in contact with it also runs a big risk of becoming corrupt. Not becoming corrupt under such circumstances means betraying the group. In this case the anti-corruption strategy should focus on structural and procedural reforms like reducing the number of transaction over which the government officials have discretion, reducing the scope of gains from each transaction, bringing in greater transparency and accountability in the organization, promoting competition in Government Organizations to end their monopolistic nature of functioning, simplifying rules and transactions in Government Offices to cut down on red-tape, using Information Technology to promote transparency and reduce discretionary powers of bureaucrats, risk profiling through pro-active vigilance, proper system of organizational supervision and use of integrity pacts.

However both these approaches have some lacunae because they fail to focus on the larger macro- environment within which both the organization and the individual operate. This macro environment includes the political, economic and social milieu prevailing in the country which sometimes trigger corruption within the government organization or tempt the individual government official to indulge in corruption. Conflict in society arise when bureaucrats see themselves in two social roles with opposing moral obligations that is the macro morality of the government official harping on impartiality and rule orientation verses the micro morality which requires a government official to favor friends and relatives whenever possible. Thus in this regard the civil society cannot abdicate its responsibility of building ethics in administration. The civil society can ensure that the administration in India remains accountable and transparent through a number of techniques that have already yielded good results in many parts of the country like the system of social auditing known as 'Jan Sunwais' stated by the NGO Mazdoor Kisan Shakti Sangathan in the state of Rajasthan or through the use of Citizens' Charter to file complaints against erring civil servants. Apart from this by taking help of the Right to Information Act, 2005 to bring to the public domain all those information relating to government's performance which were regarded as classified information and not given to the ordinary people. Since the economic conditions constitute a very vital part of the macro-environment, in the name of organizational efficiency many old agencies have been removed that provide for public accountability. In the wake of glob-

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alization, public sector reforms under the influence of New Public Management have altered the culture within which public services operate. Today the standards of ethics and probity have taken a back-seat and efficiency and target attainment at any cost have become the main aim of public administration. All these changes have triggered the growth of a new genre of corruption categorized under Serious Economic Offences and Corporate Frauds in India.

There is a need for creating a separate investigative authority for serious economic fraud and special fast-track courts for trying such cases. Focus should also be on building up specialized agencies who will be tracking and recovering ill-gotten assets accumulated through serious economic offences of both private individuals and government servants. In India, A Serious Frauds Investigation Office (SFIO) was created in India in 2003 to deal with serious cases of corporate frauds. The SFIO presently carries out investigations under the provisions of Sections 235 to 247 of the Companies Act. But the real problem concerning serious economic offences is that there are no simplified procedures created to empower the SFIO to take up the prosecution of the concerned guilty corporate or government officials. There are many ambiguities in the IPC and Companies Act, 1956 which have to be immediately redressed to enable the SFIO to move swiftly and effectively for successful prosecution of the guilty. Therefore, to insulate SFIO from political interference and at the same time enable it to function independently, there is an urgent need of creating a separate statute to regulate and guide the functioning of SFIO.

A very important part of this macro-environment is politics. Politics and those engaged in it, play a vital role in the legislative and executive wings of the state whose acts of commission and omission have a direct bearing on the incidence of corruption. As a result, one cannot deny the fact that without reforming the political executive, one cannot expect high levels of integrity from the permanent executive who work under their direction. In this context two important issues need to be reflected upon viz: 1) Political Party funding and Electoral Reforms, 2) Politician -Civil Servant relationship. It is a well established fact that the integrity of political parties in India is gravely compromised by the way they collect funds to contest in the elections. Most would agree that greater degree of transparency should be established in this matter. In order to eradicate corruption in this regard it is very necessary to implement at least partial state funding of elections. Apart from this publicity of the annual Party Audit Report and Asset Declaration of Party Candidates should be done in both the print and electronic media on a regular basis. It is also very essential to monitor the income and expenditure of all political parties especially at the time of elections. Moreover institutions like the Lokpal (ombudsman) must be created as soon as possible. As far as minister-civil servant relationship is concerned in order to ensure administrative continuity and stability to the incumbents, frequent transfers should be discouraged and an officer should have a minimum tenure of three to five years in his new post. In case of sensitive posts the tenure should be defined for a shorter period, which may be two to three years. Detailed guidelines should be formulated and publicized by every government department as part of a comprehensive transfer policy to get rid of arbitrariness in transfer policy and establish transparency.

A holistic approach for combating corruption would require an optimum mix of all the above mentioned reform measures. Care should also be taken to see that these reform measures are a balanced mixture of both preventive and punitive measures as observed

by the Second Administrative Reforms Commission (2007:135). Punitive measures act as a deterrent whereas preventive measures reduce opportunities for corruption by making systems transparent, increasing their accountability, reducing discretion, rationalizing procedures and other means of reform.

REFERENCES

Banerjee, A. (1996). Can Anything Be Done About Corruption? Quibria, M.G. and M.J.Dowling (eds.), Current Issues in Economic Development: An Asian Perspective, (Hong Kong): Oxford University Press for the Asian Development Bank: 107-131.

Caiden, G. E. and N.J. Caiden, (1977), Administrative Corruption, Public Administrative Review, 37/ 3 (May-June): 301-309.

De Graaf, G. (Spring 2007).Causes of Corruption: Towards a Contextual Theory of Corruption. Public Administration Quarterly, 37/ 1: 39-86.

Dwivedi , O. P. (April 1967). Bureaucratic Corruption in Developing Countries, Asian Survey, 17/ 4: 245-253.

Dwivedi, O.P. and R. B. Jain, (1988). Bureaucratic Morality in India, International Political Science Review, 9/3: 205-214.

Godbole, M. (2003). Public Accountability and Transparency- The Imperatives of Good Governance, New Delhi N.D.: Orient Longman.

Government of India, Committee on the Prevention of Corruption (Santhanam Committee), 1964, Ministry of Home Affairs, New Delhi.

Government of India, Second Administrative Reforms Commission, Fourth Report, Ethics in Governance, Jan 2007, Ministry of Personnel, Public Grievances and Pensions, Dept. of Administrative Reforms and Public Grievances, New Delhi.

Kochanek, S. A. (Dec.1987), Briefcase Politics in India - The Congress Party and the Buisness Elite, Asian Survey, Vol. XXVII, No.12: 1278-1301.

Lall, B.R. (2007). Who owns the C.B.I.? New Delhi, New Deli: Manas Publishers.

Myrdal, G. (2005). Corruption: Its Causes and Effects. In Ajit Mishra (Eds) The Economics of Corruption, New Delhi, N.D.: Oxford University Press: 37-62.

Palmier, L.H. (1985). The Control of Bureaucratic Corruption, (New Delhi N.D.): Allied Publishers.

Quah, Jon S.T. (2002) .Responses to Corruption in South Asian Societies. Heidenheimer A.J. & M. Johnston (Eds.), Political Corruption - Concepts and Contents, New Brunswick [U.S.A.] :Transaction Publishers: 513-532.

Stiglitz, J. E. (2003) Globalization and its Discontents, (New Delhi N.D.): Penguin Books India.

Tiruvalluvar, Thirukural, (H.H. Sivaya Subramuniyaswami Trans.), 1995, Himalayan Academy: 64. retrieved from <http://www.a1tamilnadu.com/images/kural.pdf>

Vohra Committee Report, 2002. Document 2, Indian Journal of Public Administration, Volume XLVIII, No.3, July-September.

Zimmerman, J. F. (1982). Ethics in Public Service, State and Local Government Review, Volume 14, No.3, Carl Vinson Institute, University of Georgia: 98-106.