

# Values Vs Institutions – Strategies Against Corruption

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## Cost of Corruption

Ubiquitous corruption is the most visible symptom of dysfunctional governance in India. Abuse of public authority for private gain is the essence of corruption. The enormous price a nation pays on account of corruption is well-documented and self-evident. Corruption at the very least imposes added cost on the citizen and tax payer in obtaining the most basic services – birth certificate, ration card, land record, registration of sale, water connection, power connection, building permission, registration of FIR in a police station etc. In a country with vast poverty and illiteracy, this added cost is an intolerable burden on the poor, and often diminishes their earning capacity or takes away their precious resources and deepens poverty. For instance, the street hawkers, vegetable vendor, and *rikshaw* puller in our cities are subjected to daily extortion and collection of '*haftas*', and find it very hard to rise above poverty no matter how hard they work, as a significant share of the fruits of their labour are illegally appropriated by the very public servants whose duty it is to protect their interests.

Corruption negates rule of law in many ways, apart from the obvious fact that it is violative of law. Endemic corruption penalizes citizens who do not wish to pay a bribe to get a service, or cannot afford to pay a bribe. Corruption rewards those who comply with demands of extortion and makes honest behavior in society difficult and painful. A climate of corruption deters the best entrepreneurs from establishing or running a business; thus undermining investment and wealth-creation. At a time India needs to create a million new jobs every month to productively employ the large numbers of young, able-bodied population joining the work force, the impediments to wealth creation and entrepreneurship in the form of corruption severely undermine the society and nation. In a culture of crony capitalism and corruption, competition is eroded, and the businesses that enjoys the blessings of those in power or those yielding to the demands of extortion alone can survive or flourish. An artificial entry barrier is created for entrepreneurship leading to flight of our best minds and capital to other nations, or

many capable people preferring safe careers instead of facing daily extortion and depredation. Once competition is eroded, inefficiency is rewarded, the consumer pays dearly in the form of high price and low quality, or society bears the hidden cost of damage to environment or risks to public safety.

Many forms of corruption in public procurement and bad public policy lead to direct depletion of the exchequer. This loss severely cripples the state in fulfilling its obligations to people as many critical sectors are starved of funds. Poor infrastructure, lack of basic amenities, appalling healthcare, sub-standard education, absence of rule of law, and a general failure to provide public services are all evident in India even as public functionaries indulge in waste, opulence and lavish life styles. This failure, while retarding growth, disproportionately impacts the lives of the poor who depend heavily on government to provide these services.

Perhaps the most insidious damage on account of corruption results in the form of erosion of public trust and confidence in government, and distortion of citizens' behavior in their day-to-day activities outside homes. A culture of mistrust and lack of respect for law or public authority severely undermine public morale and create conditions for breakdown of rule of law and public order. When the state system is seen to be corrupt and inefficient, people tend to fall back on traditional institutions like cast, kinship and other relationships based on primordial loyalties to cope with stressful situation. Society is further divided and mistrust deepens, leading to a vicious cycle of social divisions, erosion of trust, failure of basic services, backwardness, poverty and corruption.

### **Values vs Institutions**<sup>1</sup>

Quite often people lament about the decline of values in our society. Many believe that corruption, lawlessness and criminalization of politics are consequences of declining values. However, we must remember that values are inter-related and their significance

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<sup>1</sup> This section draws heavily from the author's earlier writings, particularly the chapters:

(i) "Values vs Institutions: Moving Beyond False Dichotomy" in **Restoring Values: Keys to Integrity, Ethical Behaviour and Good Governance**(2010), pages: 73-82

(ii) "Liberty and Locus of Power" in **Liberalism in India: Past, Present and Future** book(2016); pages :113-128

in democracy is contingent on consequences they result in. Values such as honesty, trust, sacrifice, cooperation and reciprocity are very strong within a family or a caste group in India. Therefore, it is not the absence of values that is bedeviling India. It is the prevalence of values within restricted social groups and not across social groups that is resulting in negative externalities such as nepotism, corruption, criminalization of politics and dynastic politics.

It would be very tempting to characterize this problem – absence of values in broader social space – as something very Indian. The truth is that values are roughly the same in every culture and civilisation throughout history. A small fraction of population always has inherent sense of values that does not require to be enforced by external compulsion – be it social sanction or law enforcement. Similarly there is always a small fraction of population that tends to indulge in bad behaviour unless restrained firmly by society or law. If good behaviour is rewarded and bad behaviour punished consistently, most people tend to behave well, but if the contrary is true, most people maximize short-term private gain at the cost of society. In effect, the overall societal behaviour is a reflection of the ability of law and society to reward good behaviour, or correct bad behaviour.

Take a planeload of Indians travelling West either for pleasure, business, study or work. Most of them who are not used to observing any rules behave differently soon after landing. They notice that people are standing in lines and following the traffic rules. If by force of habit they lower the car window to throw a piece of paper immediately their host warns them against it. The slow learner painfully realizes that violation of even simple rules is followed by fines, penalties or loss of job.

If after some years of stay abroad, these same people return to India and try to drive the way they do abroad, they soon realize that everybody is overtaking them on all sides and it would take them a painfully long time to reach their destination! Or if they do business the same way as abroad, they realize that nothing gets done without their

greasing palms. Most people fall in line quickly and they seek short-term gain at the cost of society.

### **Feudal Notions vs Modern Norms**

While examining corruption and abuse of power, it would be useful to look at the stage of evolution of a tradition-bound, feudal society into a modern nation-state bound by norms of rule of law and accountability. The German social scientist and philosopher Max Weber (1864-1920) has identified three types of power in organizations: traditional, charismatic and rational-legal or bureaucratic. He described the rational-legal, bureaucratic system of power as the ideal form with certain specific characteristics: a meritocratic, professional administrative class whose tenure is determined by rules and who do not have proprietary interest in the organization; a hierarchical principle of organization with functional divisions and specialization; a rational system of rules, regulations and procedures to ensure uniformity of application and effective coordination; impersonal relationships free from emotions and sentiments; and maintenance of proper official records for accountability as well as future reference. Normatively Indian bureaucracy too is based on this classic Weberian model, with appropriate institutions of checks and balances and accountability, supremacy of the elected political executive within the framework of constitution and rule of law, and accountability to the legislature through the council of ministers, which in turn is accountable to people through the ballot.

However, this idealized, normative exercise of power is grafted on the tradition-based, feudal norms of personalized power and charismatic power based on an individual's sway over the electorate irrespective of the adherence to constitutional and democratic norms. As Ferrel Heady (Public Administration – A Comparative Perspective; Fifth Edition) analyses, Max Weber used the concept of patrimonialism to characterize the pattern of authority relationships in a society evolving from absolute monarchy 'where the distinction between the king in his private and public capacities, and between the royal officers who ruled the king's household and those who carried on the government of the country' (H.F.Tout) was not clear. In such a patrimonial system, 'The royal

household and royal domains are managed by the king's personal servants; the grants of power to these officials are arbitrary decisions made by the ruler which can be altered by the ruler as he sees fit'.

In India, as in many transitional democracies, we can witness the often confusing mix of the idealized Weberian administrative model and the personalized power exercised arbitrarily for private gain or patronage at will with few fetters. We often see society operating in various layers in different tiers, different geographies and different sectors. We see the coexistence of nineteenth century practices and notions of power with twentieth and twenty first century institutions in various walks of public life in India. Given the continental vastness, diversity, varied historical experiences of different parts of India and varying levels of urbanisation and integration in a modern economy and society, we see that the administrative practices, exercise of power, accountability and people's acceptance of arbitrariness and corruption vary enormously. The concept of prismatic society outlined by Fred Riggs, and in particular the orthoprismatic societies of transitional democracies characterized by malintegrated societies and institutions largely applies to vast segments of Indian society and governance. However, I must emphasize that these are problems of transition, and every society goes through these phases before evolving a genuinely rule-based, impersonal, modern, efficient, accountable governance system. The challenge is how to accelerate this process of transformation with least social dislocation, economic cost and political convulsion. No society can claim to be perfect, and every society has its inherent strengths and weakness. India has done well in the transition from a colonial, feudal society to a modern nation-state; but we still have a long way to go before personalized, arbitrary, unaccountable power gives way to impersonal, rule-based, accountable exercise of power in the service of the citizens and tax-payers.

### **Asymmetry of Power and Accountability**

A modern, rule-bound system of governance serves citizens well only if and when the citizens have the knowledge, economic power and organizational capacity, and institutions of accountability are real and effective. However in our society there is

tremendous asymmetry of power between the bulk of the citizens who are notionally the ultimate masters in a democracy, and the professional bureaucracy whose job it is to serve the public. Abject poverty, colonial legacy, hierarchical caste-based society, and largely agrarian economy mean that even the lowliest of government employees are more economically secure, influential and powerful than most citizens<sup>2</sup>. This was compounded by the disastrous license-permit-quota raj and state control of most economic activity for over four decades after independence. This state control made most of the citizens heavily dependent on bureaucracy for most basic needs, and converted the citizen into a mendicant, and made the bureaucrat the master, thus reversing the role and relationships in a perverse and dysfunctional manner. As a result, poor delivery of services, harassment, corruption and influence peddling have become integral features of our governance. While significant parts of license-permit-quota system have been dismantled with economic liberalization, poverty and overreliance on state persist because of corruption, misgovernance, incapacity or unwillingness to deliver education and healthcare, and bad policies. As a result, license-permit raj has given way to a system of populist policies focusing on short-term consumption subsidies to attract the voter. These populist subsidies have failed to enhance income-earning capacity and depleted resources at the cost of wealth creating infrastructure and human development, and perpetuated dependence of ordinary citizens on the bureaucracy in order to derive benefits intended to temporarily reduce the pain of poverty. The asymmetry of power has thus been continuing largely unchanged even in the post-1991, semi-liberalized Indian economy. Any serious attempt to curb corruption must therefore address this asymmetry of power, and create conditions for citizen awareness, assertion and effective accountability.

### **Role of State**

Once we approach corruption from a rational point of view and recognize it as arbitrary use of state power and/or illegitimate and illegal private gain at public cost, it is clear that the essential driver of corruption is state's monopoly over exercise of power and delivery of public services. When we buy goods and services from the market, we do

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<sup>2</sup>Author's paper: "Can we Transform Governance in 2017?"

not complain of corruption. Each consumer and buyer makes a choice best suited to them from available multiple options in the market. It is this choice and competition in the market that give the buyers power, and that hold suppliers' perfidy in check. There are inherent correctives in the market, as buyers gravitate to the best supplier who sells goods or services of highest quality for the best price. If the seller's own organization is inefficient, or if his own employees fleece him, those failings will be reflected in the price and/or quality of his product, and consumers quickly switch over to his competitors who produce better goods or services and offer a better price.

But government by definition exercises a monopoly in most of its functions. It follows necessarily that such monopoly must be as restricted as possible, and all functions that can best be exercised by the market and can be performed by multiple players competing for market share and patronage of customers should be given up by the government. There was a time when government exercised complete monopoly in telephones, steel, passenger transport and electricity. Almost all those goods and services were costly, inefficient and in short supply. Competition and choice in telephones and steel, and opening up passenger road transport and power generation to competition have already improved supply, quality of service and price dramatically, and eliminated corruption in these spheres. Similarly the wholly irrational state role in manufacturing consumer goods like watches, automobiles, bread, soap, paper etc. has largely been given up with enormous benefits of stimulation of the economy and elimination of corruption.

It necessarily follows that we should rigorously define the irreducible minimum role of the state, particularly in the Indian context in which state has not exhibited any great capacity to deliver efficient services to people. And we must devise mechanisms to involve the market, citizens and stakeholders in the delivery of services that should remain with the state, and institute effective systems of accountability in the absence of market competition and consumer choice.

In the context of modern economy and India's current situation, the state should exercise three basic functions: sovereign functions; infrastructure and basic amenities; and healthcare and education. Sovereign functions include defense, monetary system, and minimal necessary regulation of the market and society which are self-evident. But the essential sovereign functions of public order, justice and rule of law are less than satisfactory in India. And all these three, particularly justice and rule of law have a direct impact on the level of probity of public functionaries and prevalence of corruption in society in the absence of fear of law and predictability, certainly and fairness in its application.

Infrastructure including transport, power, water, storm water drainage, sewerage, sanitation and traffic management is woefully inadequate in India. In these spheres, while government has to take the overall responsibility for infrastructure and basic amenities, bringing in market forces and competition wherever feasible, decentralized management to make local stake holders wield power as far as practicable, better measurement of outcomes, greater transparency and effective institutions of self-correction and accountability are the keys to improve services and reduce corruption. The vital principle to be kept in mind is establishing a link between the taxes/tariffs paid and service delivered as far as practicable, so that citizen assertion and accountability reduce corruption and improve services.

Education and healthcare are abysmally poor in India with the consequences of continued impoverishment of people, low productivity, growing inequalities and mounting corruption in these sectors. The government should fund these services and ensure efficient delivery and minimize the burden on the poor. But its role should be to bring in public-private partnership, choice and competition to ensure quality outcomes at least cost to the exchequer and with no out of pocket expenditure for the poor and lower middle classes, and not to exercise monopoly or state control.

A redefinition of the role of Indian state, acquisition of capacities commensurate with the state's irreducible role, and involving the market and citizens' voice to ensure



competition and accountability wherever feasible are critical to eliminate corruption and improve state's capacity and delivery of services.

### **Extortory Vs Collusive Corruption**<sup>3</sup>

One issue needs to be addressed before we can proceed further. Millions of citizens in India are forced to give bribes to service providers, regulators and tax collectors for no fault of theirs. On a day-to-day basis, the hapless citizens are subjected to extortion for myriad services. A birth certificate, a ration card, a nativity certificate, registration of a sale deed, house building plan approval, water, electricity or sewerage connection – all these often are delayed and denied if the citizen does not comply with extortory demands for bribes. The citizen has a cruel choice: he can comply with the bribe demand and get the work done quickly; or he can resist the demand and suffer delays, uncertainty, inconvenience, loss, harassment, and sometimes missed opportunity. In these cases no favour is bestowed and the citizen is entitled to the service, and he is an innocent victim of extortory corruption. In such a situation, citizens are racked by guilt and an oppressive feeling of moral compromise. What we need is a concerted effort to build institutions and practices to ensure prompt delivery of these services without having to resort to bribes. Citizen's charters with penalties for non-delivery of services, computerization, transparency, and empowerment of local communities and stakeholders will give the citizen a greater measure of control over the situation, and bribery can be eliminated. Moral judgment of hapless victims of bribery, and equating the bribe giver in such a case with bribe taker, will only undermine public morale, and make the task of fighting corruption more difficult.

Collusive corruption, however, is different. In awarding a contract, transfer of officials, recruitment in public services, grant of a mining lease, alienation of land or interference in crime investigation, often both bribe-taker and bribe-giver act in collusion and severely undermine public interest. Competition is eroded, public resources are swindled, injustice is done or criminals are allowed to escape, and often monopolies are

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<sup>3</sup> This section draws heavily from the Author's paper "Combating Corruption – The First Steps" published in The Indian Journal of Public Administration, July-September 2011, Vol. LVII No. 3.

created in such acts of collusive corruption. In such cases, both bribe giver and bribe taker are equally guilty. And the damage done by collusive corruption in undermining public interest is immense. We need to treat collusive corruption on a higher footing and institutionalize mechanisms to firmly curb it, and treat it as a graver offence and impose rigorous punishments.

### **Market for Public Office and Corruption**

Ferrel Heady (Public Administration – A comparative Perspective; Fifth Edition – page 195) described the French administration in the 17<sup>th</sup> century as follows:

*“Nevertheless, these royal reforms were only partially successful. Part of the problem was continuing resistance from local sources, but the main deficiency was the failure to create a body of competent officials adequate to cope with the burdens placed upon it. The intendants themselves has legal training which was not particularly suited to administrative tasks, but the principal fault was that generally posts in the royal service were obtained through influence and intrigue rather than merit, and could then be transferred by sale or inheritance. The result was a centralized administrative apparatus firmly under royal direction but staffed by officials of uncertain and unequal quality with their own vested interests in officeholding regarded almost as private property. Favoritism and venality rather than competence became the touchstones for obtaining positions in the French royal service.”*

For reasons explained above, our own administration, despite meritocratic, independent recruitment systems in place, continues to be somewhat similar to the royal courts, particularly at state (provincial) level. And as far as public services that touch people’s lives directly, and corruption at the cutting-edge grassroots level are concerned, it is states that matter to most citizens most of the time.

Robert Wade, in his seminal study (“The Market for Public Office: Why the Indian State Is Not Better at Development”, World Development, Vol. 13, No.4, PP467-497, 1985)

graphically described how a well-developed market operates in India for public office at the state level. Robert Wade argued persuasively and with evidence as early as in 1985 as follows:

*“Everyone knows that corruption is common; but there has been little systematic study of the question of how corruption money is used. Everyone knows that public officials are being transferred from post to post very frequently (often with a stay of 12 months or less); but there has been little systematic study of the determinants of transfer or the effects of rapid transfer. And everyone knows that huge amounts of money are typically required to compete for legislative office; but there has been little systematic study of how politicians and parties raise money to finance election battles and nurse constituencies between elections. I shall argue that the answers to these three questions are closely related. The mechanism I describe cuts across the standard distinctions of the corruption literature between ‘low’ level and ‘high’ level corruption and between ‘administrative’ and ‘political’ corruption (Scott, 1972), showing how these various types of corruption, normally treated as separate and parallel types, can be all part of a single system”*

Robert Wade went on to establish that despite appearances and features of a modern bureaucratic structure, there is a well-developed market for public office where:

*“(i) transfers from one post to another desirable post are sold; (ii) the forces which are thought to guide bureaucratic behavior – disciplinary action against officials who are corrupt and internalized norms against corruption – are largely absent; and where (iii) the electorate allocates votes according to short-run material inducements”*

Wade outlined four sets of propositions loosely drawn from the model he developed:

*“(1) There are systematic procedures for sharing collections at each rank with higher ranks – especially in departments which allocate state contracts (public works contracts, contracts to cut state forest, etc.); and that the additional net income*

*available to many posts in many departments is large (a half or more of the annual official salary).*

- (2) Prices are paid for transfers to many posts in many departments, posts have price reputations, and prices for posts vary within departments according to what one would expect from supply and demand considerations. People in very undesirable posts (category three, no amenities and no money) tend to be either grossly incompetent or excessively honest. Transfer prices vary greatly between departments. In departments where disbursements of state funds are small, discretionary influence over the distribution of benefits is slight, and /or the benefits not highly valued, payment for transfers may be unknown.*
- (3) Politicians are active in influencing transfers.*
- (4) The rupee price of successful politics is very high, and most of the money has to be raised by the candidate or incumbent himself, rather than being granted by the party.”*

From his remarkably accurate and objective observations of corruption at state level, Robert Wade developed a model of ‘dangerously stable equilibrium’ which has the following features:

- Influence and power flow from the top to the bottom, and are translated as placements, postings and transfers.
- Money flows in the opposite direction as rent collection for services and bribes for postings. The lowliest employees collect money from citizens for services to which citizens are entitled in most cases. The corruption money goes up the chain; and at each level there is rent collection for public office; and placements are mediated by sale or auction of a position.
- Every segment of this vicious cycle feels trapped: the politician has to please party bosses to get the ministerial position and to get nominated in the next election, and needs vast sums of money to buy the vote; the officials at various levels find that honesty or non-cooperation are fraught with risks of frequent transfers, dislocation of life, marginalization, harassment and victimization; and the hapless citizens are subjected to harassment, delay, humiliation, lost opportunity and loss of earnings going from pillar to post to get basic services

delivered. The system is therefore stable, and somewhat intractable in the absence of systemic correctives; and is inherently dangerous because it creates a low level of equilibrium, is inefficient, unjust, corrupt and immoral.

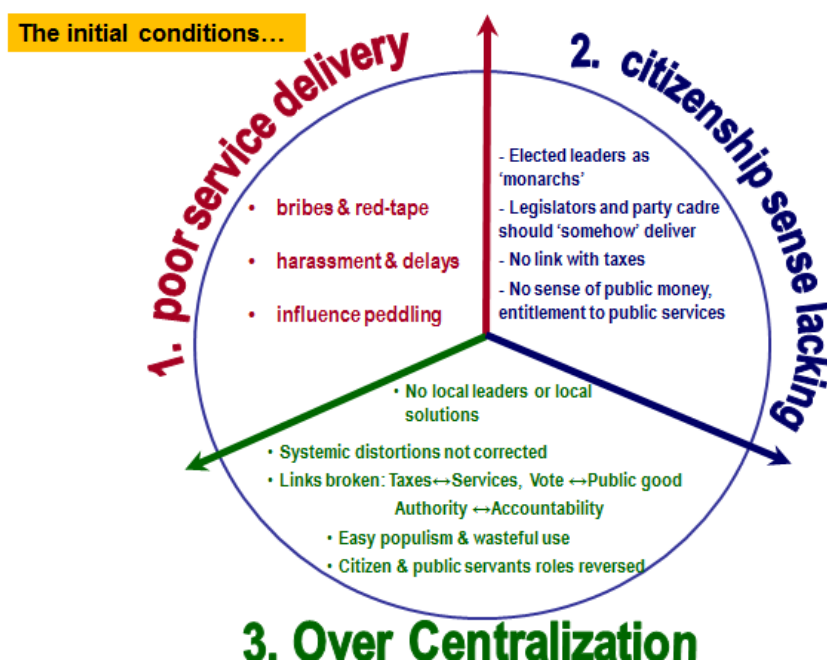
If we are serious about rooting out corruption, it is important to understand these intricate linkages and address them systematically, effectively and innovatively. Otherwise the demand side of corruption continues unchecked even as supply is shut off in certain areas, and that only leads to shift of corruption to new and innovative areas, (eg: 2G Spectrum), and to the more sovereign areas of natural monopoly of state where discretion cannot be completely eliminated (police, justice administration, land titles) without institutional reforms.

### **Corruption and Political Process**

This analysis brings us to the elephant in the room – the intricate linkages between the nature of electoral process, political culture and corruption. Politics in any well-functioning society should serve four important functions: it should attract the finest citizens into political process; it should facilitate the rise of the most honest and competent leaders through rational and ethical means; it should offer clear choices in terms of programme and leadership to the people; and once elected, it should enable a government to deliver on the promises made. Mere adoption of an electoral system or constitutional model from other functioning democracies does not necessarily guarantee good outcomes unless care is taken to address the specific circumstances of a society, its culture, ethos and needs. Often we tend to forget that British democracy evolved over eight centuries of trials and tribulations since Magna Carta, and the American democracy has been evolving for nearly four centuries since the days of the pilgrims.

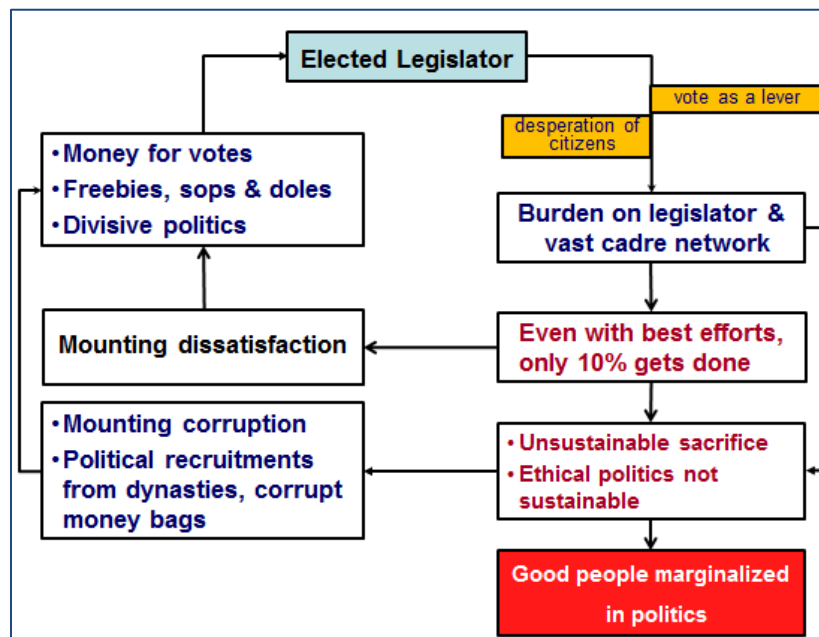
India daringly adopted universal franchise in the face of three major obstacles to democracy. First, our poverty and illiteracy made people insular, fearful and highly prone to seeking support in caste or religious groups. Second, there was no notion of citizenship or understanding of vote and self-governance. Given the colonial history, the government was seen as *mai-baap*, and people were helpless in the face of the might of state power. This notion of omnipotent government was reinforced by the

license-permit-quota raj adopted for over four decades. This oppressive government control, make-believe socialism, and curbs on economic freedom at every stage made the citizens mendicants. Third, in a poor country with colonial baggage, service delivery by lower bureaucracy was always defective. Given abject poverty of the bulk of citizens, even a low level government functionary was far more economically secure, powerful and influential than most of the people whom he was supposed to serve. This asymmetry of power made public servant all-powerful and allowed ruthless exploitation of the citizens' helplessness, and created a vicious cycle of corruption.



In the face of these three initial conditions – mass poverty and illiteracy, absence of notion of citizenship, and oppressive bureaucratic power and poor service delivery – we instituted elected governments at the Union and state levels. The people suddenly realized that, for reasons not entirely clear to them, their vote determined who would be the next *rajah* in Delhi or the state capital. Notions of probity, governance, role of state, functions of various levels of government or its agencies are alien to most voters. All they know is that they have, at last, one weapon called vote which is their only lever for getting things done. Given the abysmal service delivery – water supply, street lighting, local road, land record, ration card, electrical connection, house building permission,

patient-care in a hospital, registration of a complaint in a police station – voters approached the elected legislator, who depended on their vote to get elected. The elected legislators and governments should have focused on improving service delivery and accountability of bureaucracy, and strengthening and empowering local governments to meet most of the local needs of people. Such a course would have allowed local leadership to develop, and improved service delivery under the watchful eye of the voters who would clearly understand the link between their vote, the quality of leaders elected, and the delivery of services at local level. This would have enabled people to understand the value of the vote, unleashed people’s energies, created training opportunities for leaders, promoted quality leadership and firmly established in public mind the link between their vote and public good. It would also have made people aware that government is not an omnipotent god with all answers to their problems and unlimited resources, but it is an institution they created to fulfil their common needs with the taxes they paid.



By centralising powers at national and state levels, and by not allowing effective local governments to strike deep roots, India lost on all these counts. There is no link between vote and public good in citizens’ mind, people have no understanding of the taxes they pay and the services that can be legitimately expected in return, and there is

no accountability at any level. As a result, we have created an electoral democracy sans accountability and delivery. An opaque, centralised system of alibis has come into existence in which every functionary can evade responsibility and pass the buck. In such centralisation, only a few – the Prime Minister, Chief Minister, and district magistrate – are seen to be powerful. But even they could not deliver in a system of diffused accountability.

### **Disguised Executive**

In this climate, the elected legislator and voter responded to the emerging democratic and governance crises in the best way they could. The legislators, instead of insisting on creation of empowered local governments and holding them to account, preferred to directly address public grievances without any legitimate executive power. In order to satisfy the voters, they needed to create a vast, parallel, informal political machine to receive people's complaints, approach local bureaucracy, mediate between people and government, peddle influence, and get at least some things done. But this approach had three drawbacks: one, instead of holding the bureaucracy accountable, it became subservient to it; two, even with the best efforts of a vast, informal political machine, the delivery was sporadic and insufficient, leading to general inefficiency and growing public discontent; and three, the vast, informal political machine needed money to sustain it, and therefore corruption became necessary to sustain electoral politics.

The growing dissatisfaction of the people meant that come next election, people need to be enticed to vote for them. Popular enthusiasm for democratic process was progressively replaced by clientalism and cynicism. Therefore, given the abject poverty of most voters, vote became a purchasable commodity, and vote buying has become rampant. As all major candidates for elective office competed for vote buying in a winner-takes-all first-past-the-post system, cost of elections went up dramatically. The public spirited, honourable leaders who fought for freedom and built democratic institutions were progressively eased out, and politics became a commercial business in most cases, with all the attendant evils of abuse of state power and ubiquitous corruption. As all parties spent lavishly to buy votes, more was needed to gain the vote.



A culture of offering short term freebies – free electricity, loan waiver, television sets, bicycles, grinders, free rice – have now become endemic. The basic functions of government have been largely neglected, and only individual inducements have become the staple of politics. As all parties have joined this race for competitive populism, other techniques of vote mobilisation were needed. In a poor, diverse, tradition bound society with primordial loyalties it is easy to play one group against the other, polarise votes and reap political dividends. All these three unseemly features - vote buying, competitive populism and sectarian polarization – have now become integral to our electoral politics.

### **Vicious Cycle**

This distortion of political process, poor service delivery, high degree of centralization, disconnect between vote and tangible consequences at the local level, and between taxes and services, ubiquitous vote buying and rise of primordial loyalties and short-term freebies created a vicious cycle of corruption, underdevelopment, poverty, social divisions, perpetual anger in voters' hearts and delegitimization of the political process. At the end of the day, politics should provide answers to challenges of misgovernance and corruption; but in India, the nature of politics itself has become the central problem of our democracy, deepening the crisis instead of providing solutions. In a cycle of five years, candidates and parties for elective office to Parliament, State Legislatures and Local Governments spend about Rs. 100,000 crore – most of it is both illegal and illegitimate, spent largely for vote buying. The situation varies from state to state, but most states are following this trajectory of rising cost of elections and vote buying. Large expenditure for vote buying does not guarantee electoral success, but in most cases refusing to buy votes guarantees defeat. As a result, huge entry barrier is created for honest and public-spirited citizens. A few competent and well-meaning leaders who do enter the electoral process are quickly marginalized in the system, or are forced to compromise for survival, and become a part of the problem over time. Therefore political and electoral reform must be at the heart of any durable solution to our governance crisis.

In this complex vicious cycle, political parties and most politicians are more victims than villains. The popular prejudice against politicians and vilification of political activity only make the situation worse. Politics in India, unlike in any other major functioning democracy, is a high-energy, high-cost, low-impact operation. Even maintenance of party apparatus available at the beck and call of voters routinely in an Assembly constituency in a major state between elections costs Rs 1-2 crore per year. This, along with the abnormal cost of vote buying makes corruption inevitable and integral in our polity and governance. There are occasions when parties had yielded to public pressure and took honourable path; but in the absence of a system that allows political survival with honesty, parties paid a heavy political price for distancing tainted people. For instance BJP's removal of Mr. Yeddyurappa as Chief Minister in Karnataka led to its loss of power in that state, and Congress party's refusal to anoint Mr. Jaganmohan Reddy as Chief Minister on similar grounds led to decimation of that party in the Telugu-speaking region. What is required is systemic reform to make honesty compatible with electoral success, not merely vilification and blame-throwing.

### **Strategies to Combat Corruption**

Given this foregoing analysis, it is clear that corruption is like sepsis: it is malignant and eventually corrodes society and body politic; while its essential manifestations appear similar, the causes are varied and multi-factorial; each form has specific preventive as well as curative measures; if abused, the cure can sometimes be worse than the disease; and often strengthening the body's defences and immunity is the most effective and safe way of dealing with it. This broad analysis lends itself to identification of the various strategies and measures necessary to curb corruption. A detailed analysis of each measure is beyond the scope of this paper. Therefore, based on the foregoing analysis, and keeping in view of the current situation in India and best practices and several successes as well as continuing failures in curbing corruption, a summary of the strategies and measures that need to be adopted is given below:

## **Elimination of Monopolies and Discretion**

- Redefine the role of government rigorously, and transfer to the society and market those functions that can be discharged more efficiently and economically through competition and consumer choice.
- Promote competition and choice between government and private entities in respect of services government should primarily be responsible, even as public exchequer meets the cost of services for those who are in need of government support. eg: education, healthcare.
- Mandatory competitive bidding and transparency in allocation of natural resources: eg: land, spectrum, mines etc. Lok Satta's petition before Supreme Court had led to cancellation of 2G spectrum licenses and coal mining leases, and ensured fresh allocation by competitive bidding.
- Whenever feasible, ensure transparent, efficient electronic delivery of services to eliminate discretion and interface with government agencies.
- For clearly defined regulatory approvals and clearances, outsource the functions to accredited, empowered, qualified professionals and hold them to account eg: architects in respect of building approvals; automobile dealers for registration and licence plate; environmental bodies for pollution-related certificates.
- Enact a windfall profit tax law (on the lines of the UK law, 1997), providing for stiff taxation of windfall profits earned by corporates on account of the monopoly enjoyed by them or changed global market conditions, in the exploitation of natural resources allocated by the state.

## **Service Delivery, Civil Services and Taxation**

- A public service delivery law should be enacted guaranteeing time-bound services, with compensation payable for every day's delay. Designing proper institutional mechanism to deliver, convergence of services, and an independent institution to monitor service delivery and compensation will go a long way in improving the lives of the poor and middle classes, and eliminating the ubiquitous, day-to-day harassment and corruption.

- An executive agency model for all service delivery agencies-infrastructure, electricity, water, sanitation, education, healthcare and all other basic services to citizens will eliminate day-to-day interference in transfers, postings and service delivery. An independent civil services board for all key placements, a clear mandate with resources and authority, fixed tenure and well-defined measures of outcomes and accountability will eliminate arbitrariness, improve services and substantially reduce corruption.
- Civil service reforms including mandatory specialization, opening up key positions to the best in all services in government and experts outside, parallel recruitment through competition for senior positions, periodic review of performance and probity, and weeding out corrupt and incompetent officials through voluntary retirement will radically improve the quality of civil services, ensure accountability and minimize corruption.
- As an initial measure, the Union should identify in a credible, impartial manner the 1000 most corrupt public officials in key agencies, and retire them compulsorily; each major state should similarly identify the 100 worst culprits and retire them. Politicians, peers, businessmen and media are aware of the most corrupt offenders. Such a strong move will send a firm signal to the bureaucracy and general public, and will pave way for a system of annual monitoring of civil services and weeding out the corrupt and inefficient officials on a regular basis.
- All regulations and tax laws should be reviewed and revised to make them simple, transparent, fair and easy to enforce.
- A national mission should be launched to resurvey, settle and update land records and titles, and a transparent system of guaranteeing titles and easy access to land records, verification of titles should be put in place. This will substantially reduce corruption in all property related matters, reduce litigation, ensure easy securitization, improve the credit system, strengthen real estate market and eliminate fraud.
- The Union and states should in coordination ensure that guidance values for all urban property reflect the real market value, reduce stamp duties for property transfer and capital gains tax commensurately to make them revenue-neutral and

not impose additional burden on citizens, and eliminate the role of unaccounted cash in property markets. This will help reduce corruption greatly, and eliminate unaccounted money in real estate.

### **Empowering Local Governments, Citizens and Stakeholders**

- Transfer of real power and funds to the local governments at the level as close to people as possible is the best way to enable people to realize the value of the vote, and to raise voice against corruption and poor delivery of services. Only when vote and its direct consequences to people's lives are linked in citizens' minds, and when taxes are linked to day-to-day necessary services, will citizens raise voice to eliminate corruption and participate to improve services.
- A fixed share of union devolution to states (say, 33%) should directly go to village panchayats and municipal ward committees as per capita annual grants, and the people should have the power to decide how to allocate those funds for public projects, and to monitor their implementation.
- As far as practicable, the stake-holders' groups who utilize a service and are directly affected by corruption or poor performance should be legally empowered to manage those services. eg: parents in schools, patients' groups in hospitals, water users, rate payers, market committees, residents' associations, ward committees etc.
- Enact a False Claims Act similar to the US law. Under such a law, any person can unearth fraud or false claims, and file a civil suit on behalf of the government against those who have falsely claimed public funds for any procurement of goods, works or services. If, in a summary trial, it is proved that the company made false claims by overpricing the government relative to its best customer, or by supplying inferior goods or services, the court can impose a penalty three times the public loss computed; and the citizens who file such successful qui tam suits will get as incentive 15-30% of the penalty imposed. In the US, from 1988-2011, \$ 24 billion penalty was recovered in over 10,500 such cases. Such a law will make all citizens and public-spirited non-profit organizations partners in the fight against corruption.

## **Strong Anti-Corruption Institutions and Mechanisms**

- Constitution of Lokpal as per the provisions of the 2011 law, creation of similar empowered Lokayuktas in every state on similar lines, integration and institutional coordination between Lokpal and Central Vigilance Commission, and Lokayuktas in states – all these are long overdue, and should be completed on priority basis.
- At district and city level, independent, empowered local ombudsmen should be appointed under Lokayukta's supervision with wide ranging powers to curb corruption and abuse of office, to punish and remove erring public servants in all agencies at district and city level, and to remove after due enquiry the elected officials of local governments.
- The Anti-Corruption Bureau in each state should be brought under Lokayukta's jurisdiction, and all necessary steps should be taken to guarantee its autonomy, impartiality and professionalism.
- Independent prosecutors should be appointed under Lokpal / Lokayukta supervision to deal with all anti-corruption cases.
- The proposed amendment (through Section 17A) of the Prevention of Corruption Act envisages prior sanction of government for investigation of complaints / allegations / cases of corruption against any public servant. This omnibus protection will cripple the CBI and ACBs in their functioning, embolden corrupt officials and further politicize all crime investigation. This amendment should be withdrawn forthwith, and replaced by an appropriate provision to protect senior officials from vexatious complaints and malicious investigation in all matters related to policy advice, and compliance with a legal order of the government.
- Similarly the proposed Section 8(2) of the PC Act envisages enhancement of punishment to all bribe givers up to seven years jail term and a mandatory minimum of three years. Recent surveys of Transparency International show that 65-70% of Indian people are forced to pay bribes on a daily basis for simple services to which they are entitled. Most of these bribe givers are victims of extortion, and are forced to pay a bribe for a simple service due to them, in order to avoid delay, harassment, repeated visits, potential violation of deadlines and humiliation. Criminalizing the victims in extortionary corruption while giving protection to such bribe takers from

investigation is grotesque, counterproductive and utterly indefensible. This provision should be withdrawn; instead, a provision to increase the penalty and shift the burden of proof should be incorporated for both bribe givers and bribe takers in respect of collusive corruption where there is out-of-turn, undeserved benefit to bribe giver, where there is fraud or misrepresentation, where competition is undermined, or there is loss to public exchequer or to society or general public. By not distinguishing collusive corruption from extortionary corruption, the proposed amendment will severely hamper anti-corruption efforts.

- A law on the lines of Prevention of Smugglers and Foreign Exchange Manipulators Act (SAFEMA) should be enacted in respect of corrupt public servants, providing for confiscation of properties of all family members and benami properties once a public servant is held guilty of corruption. Given Indian societal norms, fear of loss of all property in all forms – immovable or movable – and leaving the family impoverished is a far greater deterrent than delayed legal procedures, indefinite appeals and short prison terms.
- In general our justice administration is weak, slow and inefficient. Lack of forensic capabilities, excessive reliance on confessions often obtained through third degree, shortage of courts, dilatory procedures, and inability to attract competent lawyers into judiciary have crippled rule of law. Steps to ensure speedy, efficient, accessible justice is the cornerstone of rule of law, particularly in punishing corruption.

### **Political Reforms**

- All parties, leaders, thinkers and media should come together to build consensus and create an electoral and political system that allows the entry, election and rise to power of the finest citizens through ethical means. Two broad approaches together, or anyone of them independently will radically alter incentives in politics, reduce and progressively eliminate vote buying, clean up public life and markedly reduce corruption. The first is direct election of the state executive by the people for a fixed term: this has the benefits of reducing vote buying in state elections; removing dependence on MsLA and day-to-day interference in executive functioning, postings and transfers; allowing appointment of the best experts from society as ministers;

and facilitating empowerment of local governments which is resisted by legislators who see them as a threat to their power.

- The second is proportional representation with minimum threshold of vote share for seats allocation, with state as unit. This will eliminate the role of marginal vote in the present winner-take-all FPTP system, reduce competitive pressure to buy the vote, allow entry of finest citizens into legislature, give voice to the growing youth and urban population seeking reform, and ensure harmonious politics and coalition building.

Indian society is heir to a great civilization and has many inherent strengths. Strong family bonds, community spirit, respect for public opinion, a sense of right and wrong beyond religion, respect for integrity and a desire to be valued in society – all these are strong values that are sustaining our society. Corruption in the public domain is not a result of our societal failings or genetic traits; it is a result of poor institution building, inadequate accountability, and perverse incentives that reward bad behavior. Wherever we have acted with good sense to address the causes, the results have been gratifying. The elimination of corruption in telephones, spectrum, coal mines, cement, steel, many other commodities and services, and increasingly in electronic delivery of services are all examples of success in curbing corruption through rational efforts to improve institutions, alter incentives and enforce accountability. A lot more needs to be done. Our cumulative experience and best practices serve us as a guide. Public opinion is strongly in favour of rational steps to end corruption; with wisdom, common sense, institution-building and people's involvement, we can achieve that in the near future.

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