

CORRUPTION CAN BE CONTROLLED

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“Free Enterprise was born with man and shall survive as long as man survives”.

— **A.D. Shroff**

1899-1965

Founder-President

Forum of Free Enterprise

CORRUPTION CAN BE CONTROLLED

I

Dr. P V Shenoi, I.A.S.(Retd.)*

India has been considered as one of the ten most corrupt countries in the world by credible international observers. There is a clear recognition in India itself that corruption has assumed monstrous proportions and that its control should be the first priority on the public agenda. Government as a whole enjoys today an extremely low standing in the eyes of the people in terms of its integrity, with ex-Prime Ministers and Ministers, several judges and civil servants falling under the shadow in the last three years. The time has come to deal with it with the great seriousness it deserves. The time has come for all honest people to put their shoulders to the wheel.

I wish to advance the thesis that **it is possible to control corruption, but it is not going to be easy.** Desperate diseases require desperate remedies. If we recognize it as the most serious bottleneck for national progress, we should assign it the highest priority. The corrupt and the unscrupulous will fight back to preserve their citadels; a long, protracted and purposeful battle has to be waged. We should be willing to apply unconventional but sound methods.

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Corruption can then indeed be arrested and dealt with.

Constitutional Appointments

It has been stated that every ship leaks from its bottom, but the ship of State leaks from the top. Till about mid-1960s, we had political and other leaders outstanding in their personal and collective integrity. Unfortunately, they have been succeeded by lesser men. The Lok Pal Bill has been languishing for the last thirty years; few Prime and Chief Ministers wish to be under the integrity regime of a Lok Pal. It is today quite easy for the top politicians to appoint transparently unfit people to high offices, including constitutional offices. A recommendation had been made to constitute at the Centre and the States high level Councils headed by the President/Governor, with the representatives of Government (Prime Minister/Chief Minister/Home Minister), the leader of the opposition, the Chief Justice of India/of the State, and reputed experts to make recommendations to the respective governments for appointment to the constitutional offices, like the Supreme and High Courts, Comptroller & Auditor-General, Governors, Election Commissioners, Vigilance Commissioners, Cabinet Secretary and Chief Secretary to Government, Attorney & Advocate Generals, etc. None of the Central and State Governments has shown the slightest interest in this recommendation, because none wishes to consider such appointment as a sacred trust, but only as an instrument of power politics. A citizen's movement should be started for this purpose.

Funding Elections and Political Activities

The ceilings prescribed for expenditure for the

Parliament and the State elections are ridiculous; yet, not a single government at the Centre has lifted a little 'finger to prescribe a realistic ceiling, despite the recommendations of the Election Commission. In many Western countries, State funding for elections has largely reduced the malpractices; there is no sign of any of the rulers at New Delhi taking an initiative to implement the recommendations of the Election Commission.

The political parties are expected by the Election Commission to follow certain standard practices, including maintaining records of funds received and spent as well as regular elections to party offices. There has been considerable lapse in these. The funds received by political parties are exempt from income-tax only if these parties followed these regulations. It has been reported that Income-tax authorities have often failed to muster courage to proceed against the erring parties, reportedly due to political pressure.

Role of People's Representatives

It is a shame that an estimated one-fourth of people's representatives have criminal records. Obviously, they have come to power by browbeating voters, while the right-thinking people in their constituencies have looked the other way. It is a mercy that Election Commission has decided to disqualify candidates in future who have been convicted of serious offences.

General public does not mind paying today huge unlawful sums to people's representatives for services rendered, on the ground that they get only a pittance as salary and allowances. I strongly recommend that the legislators should be paid a regular salary and allowances equal to the Secretary to the State/Central Government, so that they do not extend their palms

to pick up unauthorised donations. They should also be required to declare their earnings, assets and liabilities on 1st January every year; and a separate Legislative Committee under a leader of good standing should invite comments from the public on these declarations and deliberate on these comments about the correctness of assets and liabilities.

The Constituency allowances given to the legislators appear to me as unconstitutional; actually the legislators can claim to be above audit and legislative scrutiny on the bonafides of their expenditures. This is against the constitutional requirements of accountability for public funds.

Defections for consideration have continued merrily despite the existence of the anti-defection law. This law should be scrapped; and crossing the floor singly or jointly should meet with disqualification and a hefty fine.

Reduce the Business Role of the State

One of the sources of corruption is the comprehensive involvement of Government in business through public sector undertakings and the appointment of politicians to head them. Almost all of the successful developing countries avoided public sector business; they concentrated on raising resources by taxing comprehensively the private sector for funding large social development programmes in education, health, water supply, sanitation, housing and other social infrastructure. India is receiving only 2% return on its public sector, which has an investment of an estimated Rs. three lakh crores; such investment has been funded through loans costing 10% per annum. There is no reason why the States should run business. The Central and State Governments should dispose of all public

sector assets in the course of the next five years. The present disinvestment at five to ten per cent of the total shares is practically a joke; no serious businessman will buy shares in a public sector undertaking unless he can acquire control, which is required to convert the loss-making unit into a profitable one.

Government should retain a role for regulation of industry and business only for preventing exploitative monopoly, for maintaining health and healthy labour standards, etc. All these can be done through statutory commissions headed by Judges of the High Court or Supreme Court. The first decision of the Telecom Regulatory Authority headed by a Judge promptly went against the exploitative behaviour of the Union Ministry of Telecommunications!

A compact but business-oriented Public Service

In all effective and honest public administrations round the world, the public service has been provided with salary and perquisites comparable to the private sector, but also with enforcement of strict regulations to uphold integrity and root out malpractices and corruption. The Fifth Pay Commission of the Government of India had made recommendations to move in this direction, but the Government of India has thrown away all the positive features of the recommendations of this Commission. It is extremely worrisome whether there would be any funds left in the Central and State Governments for public welfare after payment of emoluments that have been/would be agreed to; the job of improving the performance and cost-effectiveness of public services has received a setback. It is doubtful whether this can be reversed.

Anti-Corruption Measures

If the Central and State Governments are indeed dedicated to root out corruption, there are plenty of approaches and techniques available to do so. The first step is to appoint a Vigilance Commissioner like Justice Lentin of Bombay High Court from the judiciary, who has had unsullied reputation and whose dedication to propriety is respected. The second step is to provide adequate police, judicial, and civil officers of integrity to work for him in the Vigilance Commission. The third step is for them to keep their eyes and ears open and prioritise aggressive anti-corruption measures including laying traps. Corruption is like rotten meat; and it smells at a mile's distance. It does not require a long time to identify departments and officials (political and civil) who have to be targeted.

It has to be repeated that desperate situations require desperate remedies. It is not considered very noble to encourage quislings and to reward them. But this is what is done in statecraft, particularly in political intelligence, to safeguard the integrity and safety of a nation. Almost all political spying and crime detection involves buying information from persons who are in possession of delicate but vital information. The sources of information should be appropriately protected and rewarded. Corruption has assumed the character of cancer in the political body; and the above techniques are quite justified in a desperate situation of malignant dishonesty in the body politic. There is nothing wrong to rewarding "squealers" and "whistle blowers" for a vital cause – of restoring integrity to the State. We have done it to detect smuggling; customs officials who detect smuggling are rewarded in terms of percentage value of contraband

seized. Handsome reward to the public for information, leading to successful detection and prosecution of corruption, is amply justified. This instrument should be widely used, but with great care to see that innocent people are not harassed.

Empowering Citizens

At present, the citizen is treated mostly like trash in public offices. Transparent procedures should be installed, so that the citizen can learn what has happened to his application and the reasons for the decision. The Official Secrets Act should be replaced by a new legislation which protects from public gaze only sensitive information closely related to security of the country and public order. A paradigm shift is necessary in the attitude of public servants; though difficult, it is not impossible.

Conclusion

M/s S Guhan and Samuel Paul, in their recent compilation "Corruption in India: Agenda for Action" (Vision Books, 1997) have provided a comprehensive strategy for controlling corruption. The seven critical steps stated above can substantially reduce corruption in Indian public administration. Academicians and intellectuals have to mobilise public opinion for a movement for a bribeless society.

COMBATING CORRUPTION: A NATIONAL AGENDA

II

RAM GANDHI*

The fact that India is ranked the eighth most corrupt country in the world does not startle Indian voters. A recent study revealed that most Indians feel that corruption is a part of Indian life and that the system is beyond repair.

But what if the scenario could be remedied? What if we could reduce corruption levels in India? Imagine this: The year is 2010. India is almost free from corruption. The economy is flourishing. Imagine an average Indian family earning Rs. 12,000 per month, almost 22 per cent more than it would had corruption stayed at current levels. Imagine that more than 125 million additional Indians have escaped destitution. Imagine more jobs, a higher standard of living and better health care and education facilities. A utopian world thus far – could this be a real scenario in the future? Yes, it could be, but only after certain economic and social reforms are implemented.

Today, we will share with you three issues of importance to us: understanding the impact of corruption on economic growth, examining what needs to be done in the near term to remedy the situation, and finally,

*The author is the immediate Past President of Indian Merchants' Chamber, Mumbai. The text is based on his Welcome Address at a meeting on the subject under the auspices of the Chamber on 21st December 1997 and at which Mr. I. K. Gujral, the then Prime Minister, was the Chief Guest.

proposing a role for the IMC to play in combating corruption.

The Economic Impact of Corruption

Traditionally, even the IMF and the World Bank used to think that corruption was a political and not an economic issue. But considerable evidence from around the world proves that corruption has a significant and negative impact on investment and growth. Recently, James Wolfensohn, President of the World Bank, said that corruption was the biggest inhibitor to economic development and to the inflow of funds and domestic investment. In fact, the World Bank has suspended loans worth \$ 300 million to Kenya, saying that the country has failed to tackle high level corruption.

A study done by the IMF based on data from around 70 countries has established that high levels of corruption reduce investment, and consequently GDP growth rates. The study estimates that if corruption levels in India were reduced to those in Scandinavian countries, investment rates could increase by 10 to 12 per cent per annum and the GDP growth rate could increase by almost 1.5 per cent per annum. Should corruption levels not decline it would continue to have an impact on the economy in three ways :

a. Higher cost of capital. Corruption raises the cost of capital for both domestic and international investors, and therefore limits the actual amount of capital invested in the economy. For example, it raises the cost of capital for international investors because they tend to attach a greater risk premium to the economy due to the uncertainty and unpredictability of decision making.

b. Lower returns on investment. Corruption reduces the return on investment for a potential investor because it is effectively a tax on both initial investment

and on subsequent returns. Research at Harvard University indicates that current corruption levels in India are equal to raising the effective marginal tax rate by almost 20 percentage points.

c. Lower savings rate. Corruption by its very nature generates black money. This lowers the savings rate and adversely affects the growth of the economy. It also ensures that money is wasted, instead of being spent on much needed infrastructure such as roads and bridges. Were this money to be invested back into the economy, the savings rate would rise and benefit not just the individual but the nation as a whole.

What needs to be done

Having said that corruption can disrupt our economic development, we must now look at what can stem its harmful impact. We believe that reform aimed at stemming corruption must be initiated by the leadership of the country. When we discussed the issue, two questions kept coming up: **First, is there 'real' political will to change? Second, if there is the will to change, can change actually happen?**

There is little doubt in our minds that without strong and committed political will there will be no change. We need a forceful political leadership dedicated to combating corruption. Leadership does not just mean the Prime Minister and his Cabinet; it includes all those who hold positions of leadership in their constituencies or political parties. Though many politicians say they abhor corruption, there is little evidence to show that this is more than mere words.

Breaking the problem down

But let us assume, for a moment, that we can find the political will and committed leadership; where do we

start? To begin with we need to do two things correctly: first, break down the problem into more manageable parts, and second, take the actions with the highest impact.

Let us first attempt to break down the problem. While corruption may seem all encompassing, it actually takes place at three different levels.

The first level is petty corruption — which we all encounter in our daily lives. It is the most widespread form of corruption and involves paying the occasional bribe to get a passport or a ration card more quickly.

The second level is corruption at the level of enterprise which involves paying money to either accelerate the decision making process or to distort it. For example, paying the customs official a percentage of the cost of imported goods to clear a consignment. While this form of corruption is encountered on a daily basis largely by the business community, its impact is widespread because it also affects the common man through higher prices, bad roads, and poorer product quality.

The third level is called political corruption and can be illustrated by the staggering sums of money paid out to secure large government contracts or to obtain major licenses. The term political in this case applies not just to politicians but to senior bureaucrats and businessmen involved in government related activities as well. This level of corruption is practiced by a handful of people, and is prevalent in many growing economies. Three very different levels. Each having a significant impact. Which battle do we fight first?

Choosing our battles

Dealing with petty corruption first may seem the obvious choice. But is combating corruption at this level an adequate first step. After all, it is this level that is the

most widespread. But because it is so diffuse and because it has permeated every level of society, it is the most difficult to eradicate. In order to successfully eradicate petty corruption, we will first need to reduce political and enterprise level corruption. This, in turn, will alleviate some level of petty corruption. It is then, once the overall levels of corruption are significantly reduced, that we must wage our battle against petty corruption. For, it is only then that we have a chance to emerge victorious.

Therefore, our focus should be on effectively **COMBATING** corruption at both the political and the enterprise levels. Not one at a time, but at once, and by prioritising which actions at each level should be adopted first. A very simple way to prioritise actions is to judge their impact and feasibility.

First come the actions that are highly feasible and have medium impact. These are the “symbolic” actions that herald change, indicating an intent to fight corruption. Next on the priority list are actions that have a far reaching impact and can be accomplished relatively easily – “the low hanging fruit”. These actions build momentum for tackling the “tough nuts to crack” – actions that are high on impact but low on feasibility today.

I will illustrate some low hanging fruit and symbolic actions which we believe are required to curb both political and enterprise level corruption, through some examples.

Combating political corruption

I mentioned earlier that though fewer numbers of people are involved in political corruption, it has an impact on almost every other form of corruption because those involved are very powerful and are bolstered by the status quo. Therefore, this is the most critical

issue to address. We at the IMC have identified some low hanging fruit which can be used to combat political corruption.

Low hanging fruit

1. Pass the Right to Information Bill. This piece of legislation has been hanging in the air for several decades. We strongly recommended that the government ensure that this bill, which allows the public easy access to almost all government documents, be passed.

2. Revamp the Central Bureau of Investigation. It is generally believed that the CBI has failed to fulfil its responsibilities in tackling corruption due to alleged political interference in its functioning and due to the lack of statutory powers. We recommend that the CBI be made independent of the executive by giving it the Election Commission-like status. In addition, the CBI should no longer have to seek approval from the respective ministry to prosecute a public servant.

Symbolic actions

In addition to these two steps, there is a set of symbolic actions that need to be taken in order to give the right signals and to set the stage for a lasting change.

1. Set up Executive Courts. There are 20 million cases currently pending with the judiciary. We recommend that the government set up exclusive courts both at the central and state levels to expeditiously handle all corruption related cases. These special courts should have automatic jurisdiction over all corruption related cases, and should function like regular courts in terms of the law. However, they should have the liberty to lay down their own procedures.

2. Provide immunity to informers. While the bribe giver is as guilty as the taker, for cases of corrup-

tion to come to light and to ensure effective prosecution of the guilty, supporting the “giver” is crucial. We propose that all who provide evidence against the corrupt should be granted immunity from prosecution.

Tough nuts to crack

While the steps outlined above are significant in tackling political corruption, they are just the first steps in a long climb. More radical reforms are required and these need time and effort. For instance, extensive electoral reforms are needed which should include state funding of elections, legalising corporate contributions to political parties, debarring politicians for false declaration of assets and income, and deregistering political parties for incomplete or unaudited accounts.

Combating enterprise level corruption

Along with COMBATING political corruption, it is also important to take corruption at the enterprise level head on. 67 percent of our laws have never been used in any Indian court since independence. It requires 47 different approvals to construct a building in Mumbai. A small-scale entrepreneur has to handle 36 inspectors each month and 46 separate documents have to be submitted for each export consignment. No wonder there is so much corruption at the enterprise level. We must remove excessive legal and administrative hurdles that encourage procedural delays. This will ensure simple and transparent procedures for approvals and decision making. We suggest that the government start this process with the revenue related departments because they have clear links with the economy as well as with fiscal deficit.

Low hanging fruit

Some low hanging fruit which will help reduce enter-

prise level corruption includes:

1. Ensure time bound decision making. The 'power to delay' often forces businessmen to pay bribes for routine clearances and approvals. We can put an end to this extortion by defining time limits for most routine approvals and clearance.

2. Limit use of discretion clauses. There is rampant misuse of discretionary clauses by government servants. Most of our laws and procedures allow for discretionary powers to be exercised *without* adequate justification. Even the recently revised draft income tax bill provides unlimited and unjustified discretionary powers in Section 73. Though some degree of discretion must be permitted, we can delete most blanket discretionary clauses. Written case specific justification should be required and made available to the public on request.

3. Revamp outdated laws. It is dichotomous to enter the twentyfirst century with nineteenth century laws. Let us make a start by scrapping at least those laws which we all agree are outdated and a cause of corruption, like the Urban Land Ceiling Act and *Octroi*.

Symbolic actions

Having discussed the low hanging fruit let us now look at some of the symbolic actions which will motivate the civil servants to work against corrupt practices.

1. Publicly reward the honest. We urge the Prime Minister to institute national honesty awards, with the same status as the Padma Shree, to be given to bureaucrats for honest service. In addition, awards should also be given each year to those who redesign systems and procedures in their departments.

2. Appoint an Ombudsman in key government departments. All revenue related departments should appoint an independent Ombudsman nominated jointly

with industry associations. The Ombudsman who would look into allegations of malpractice would be from outside the department and would differ from the existing nodal officers who report to the anti-corruption cell.

Tough nuts to crack

In addition to these actions, there are a whole set of changes which though difficult to implement are crucial to removing corruption in the long term. Many of these changes, the tough nuts to crack, are an extensive set of administrative reforms which include reducing political interference in bureaucratic appointments, making bureaucrats accountable for decisions, revising pay levels and performance evaluation criteria for bureaucrats all of which will reduce the incentive to be corrupt. In addition we need to merge all indirect taxes to create a nation-wide VAT structure, and revamp the entire legal infrastructure. This process is very important but can only be implemented over a longer period.

WORLD BANK STUDY ON CORRUPTION	
Countries	Rank of Corruption
South Africa, Mauritius, Colombia, Ecuador, Venezuela	1
Benin, Mali, Nigeria, Bolivia, Paraguay, Peru	1
Guinea, Guinea-Bissau, Senegal, Cameroon, Chad, Congo	1
Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyz Republic	2
Uzbekistan, Jordan, Morocco, West Bank and Gaza Strip	2
Kenya, Tanzania, Uganda, Zambia	2
Czech Republic, Hungary, Poland, Slovak Republic	3
Estonia, Latvia, Lithuania, Madagascar, Malawi, Mozambique	3
Zimbabwe, Albania, Bulgaria, FYR Macedonia, Turkey	3
Cote d'Ivoire, Ghana, Togo	3
Costa Rica, Jamaica, Mexico	4
Belarus, Moldova, Russia, Ukraine, Fiji, India, Malaysia	6
Italy, Portugal, Spain	6
Austria, France, Germany, Switzerland	9
Canada, United States	12
Ireland, United Kingdom	13

Source: "How Businesses See Government," IFC, Discussion paper 33, 1998

The views expressed in this booklet are not necessarily those of the Forum of Free Enterprise.

“People must come to accept private enterprise not as a necessary evil, but as an affirmative good”.

— Eugene Black

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