

Corruption The Hydra-headed Monster

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From a society of hope India has suddenly gained notoriety as one of the most corrupt countries in the world. Whether it be in trade, industry, the election process, government in all its branches, even education and health, domestically the belief is that nothing is done in India without a bribe having to be paid. This has created an enormous crisis of confidence in which we as Indians trust no one because every one of our institutions has lost credibility. Internationally the reputation that we have earned for being a corrupt society has shaken confidence of the world market in India's viability as a good place to do business and this has seriously and adversely affected our economy. For every Indian this is a situation which is not only fraught with danger, it is a situation which threatens to damage the very fabric of India beyond repair.

Corruption takes many forms and is facilitated and promoted by various factors. Our general approach to tackling corruption is to enact a law to prevent corruption, create an organisation for investigating cases of corruption and then leaving it to the courts to punish the corrupt. The Delhi Special Police Establishment, the various States Lokayukts and the Central Vigilance Commission and the investigating agencies functioning in the States have not so far inspired confidence either by their professional competence, impartiality, integrity or their intention to actually book the corrupt. Consequently there are allegations of investigating agencies functioning according to political diktats, themselves becoming a part of the system of corruption by being corrupt during investigation and by failing to produce convincing evidence in the courts, have a conviction record which is miserable. The penal approach to tackling corruption can succeed only if government has a firm political commitment to eradicating corruption, the investigating agencies are competent, unbiased and immunised from political or other interference and the functioning of these agencies is so efficient that investigation is prompt, prosecution is relentless and the conviction rate is high. Otherwise the penal approach has no deterrent effect.

One could classify corruption on the following lines:-

- (a) Political corruption which arises from the need to make money to meet the high cost of election. It also arises from a practice which has now become fairly common whereby politicians are purchased through actual cash payment and by such purchase governments are formed and power snatched. Once power is a purchasable commodity it no longer remains a means of serving the people and promoting their welfare. It becomes a means of acquiring ill gotten personal wealth. The need for money to buy power ultimately corrupts the whole system of government and this is the phenomenon which we are witnessing in India. Therefore, the first set of remedies for corruption must begin by attacking the problem of political corruption head on.
- (b) Corruption which has traditionally been described as 'Jabarana' or extortion, 'Nazarana', or tribute and 'Shukrana', that is gratitude. This is the most rampant form of corruption prevalent at bureaucratic level. In fact it is generally believed that nothing moves in India without money being paid on one or the other of these counts and it is this which is

hurting the common man. Political corruption also hurts the common man, but more than that it derails the economy at national level. Both types of corruption need to be tackled.

Can we remedy the situation? We have to begin with tackling political corruption, which means that we have to restore a situation in which corruption carries a heavy price, power is no longer a purchasable commodity and power is to be enjoyed only for the promotion of the welfare of the people. In a democracy the holders of power must periodically change so that dynastic or coterie based politics is eliminated from the system. Let us make a start by looking at how we can make the process of elections open, subject to scrutiny, not very expensive but with an equal opportunity being available to persons who are otherwise desirable but cannot afford even the normal cost of campaigning in our very large and populous constituencies. Let us recognise, therefore, that we have to pare the cost of elections down to the bare bones so that the need to spend money to be elected is substantially reduced and elections become affordable.

The first step in this behalf, therefore, would be that we should have a system of State funding of a prescribed minimum amount of expenditure by candidates for State Legislature and Parliamentary elections. This would include funding of every aspect of canvassing for a period of one month, including cost of transport, miscellaneous expenditure and incidental expenditure. It is suggested that:

1. Every nominee be given vehicles, drivers, P/D/OL and incidentals at the rate of one vehicle per assembly segment, one for the election agent of the candidate, one vehicle for the candidate and one spare vehicle for a Parliamentary election; and one vehicle for the candidate, one for his election agent and two other vehicles for an Assembly election at State cost.
2. Prescribed incidental expenses be reimbursed on the day of the poll and the counting day at the rate of two polling agents per booth per candidate.
3. Miscellaneous and incidental expenses for covering other costs, including a prescribed quantum of publicity material, for each candidate.
4. Because once there is State spending, all other expenditure by the candidate must be barred, therefore, the District and Sessions Judge of the District in which the constituency is located should have the authority to summarily hear and dispose of complaints of excess expenditure by candidates or their supporters on their behalf, with the Judge having the power to debar the candidate from seeking election from that constituency if the charges are proved. This process would begin from the date of announcement of the poll schedule and continue up to the date of actual voting.

The second step would aim at ensuring that the elections result in the possibility of forming a stable government, free from undue pressure from small or regional parties which have an agenda of self promotion rather than good government. For this the major political parties have to be strengthened and, therefore, the importance of small groups has to be reduced. It is suggested that in order to do this we have to:-

- (a) Prohibit an independent from standing for a State Assembly election until he has successfully contested a local government election at panchayat or municipal level.
- (b) Prohibit an independent from contesting a parliamentary election unless he has successfully contested both a local government and a State Assembly election. That would leave only serious independent contenders in the fray.
- (c) Prohibit any political party from contesting parliamentary election unless it holds at least five seats each in the State Legislatures of at least three States. Regional parties would then either have to merge with larger parties, increasing their viability, or would have to expand their horizon beyond just one State, or would be kept out of Parliament, thus preventing them from exerting disproportionate pressure in a situation where the major parties are delicately balanced in Parliament.

The third point is that we have to eliminate the monster created by the politics of defection. In 1967 politicians such as Devilal and Bhajanlal in Haryana and Govind Narain Singh in Madhya Pradesh discovered that it is possible to purchase legislators and thus induce them to defect from the party on whose ticket they were elected. In Madhya Pradesh thirty-eight MLAs were thus made to defect from the Congress and the government headed by Pt. D.P. Mishra was reduced to a minority. Because D.P. Mishra was not liked by Indira Gandhi she told the Governor of Madhya Pradesh not to accept the Chief Minister's advice to dissolve the House and hold fresh elections. Had that been done this malpractice of defection would have been nipped in the bud. Instead, to satisfy her own likes and dislikes, Indira Gandhi chose to make defections a premium activity and since then India has neither had honest politicians nor stable government. The blame for our present unstable coalitions rests fairly and squarely on Indira Gandhi's decision in 1967. Therefore, to curb political corruption we have to eliminate defection. In order to do this the following measures are recommended:-

- (a) If there is a total prohibition on switch of loyalty from the ticket on which one is elected, with a change of loyalty automatically inviting removal from the Legislature and being debarred for six years from contesting an election, then power cannot be purchased by defection and governments would tend to be stable.
- (b) If defections jeopardise the government by reducing the government to a minority, then the President or the Governor, as the case may be, should be constitutionally bound to dissolve the House and order fresh elections. Every member who defected would stand barred from contesting elections for six years.

Jabarana, Nazarana and Shukrana forms of corruption arise out of administrative factors, in which arbitrary executive decisions, excessive discretion, deliberate delay and procrastination are causal factors, especially if they deny justice to those who have a genuine case and benefit those who take advantage of arbitrariness in decision making. To the extent that a system is governed by a set of rules and norms which apply equally to all, thus reducing the power of officials to extort money from applicants, Jabarana can be curbed or even eliminated. To the extent that a person's office does not give him the authority to make people fear him, Nazarana or tribute can be eliminated.

The fourth point is that if corruption by official is to be curbed or eliminated we should attempt to reduce personal interaction between the citizens and officials to a bare minimum, so that citizen does not have to run to government office to get even his routine work done. Rules, then become a benchmark against which a citizen can himself judge the merit of his own case, with a guarantee that if the case fits within the rules it will be approved and if it does not then no one can approve it. It is suggested that we review all rules and regulations, as also procedures, which bring the citizen in contact with officials, simplify them as far as possible, widely publicise the procedure and then put in place the mechanism by which the citizen can obtain remedy for anything in which he requires government intervention and that, too, through a system which, because of the way in which it is constructed, brooks no delay. Two examples of how this would work are

- (a) In 1978 the Delhi Development Authority reviewed the system of obtaining completion certificates after construction of a building. The citizen had the option of either approaching the City Planning Department for such a certificate, or he could go to an architect who could issue a certificate in accordance with a prescribed checklist. The DDA officials extorted sums for issuing a completion certificate, without which the owner could not use the building. The architects were in no position to extort money as they had no official post. What is more, they were in competition with each other and, therefore, they could only charge a reasonable fee. In two years not a single complaint was received on account of delay or non-issuance of completion certificate, though the illegal earnings of DDA planners plummeted. The minute the officer who headed the DDA and had introduced this reform was moved out the old system was restored and corruption came flooding back.
- (b) The Rajkot Municipal Corporation some years ago made all building permission applications on line. If a plan confirmed to the permissible norms building permission was issued on line the same day. As this covered more than 90 percent of applications the process become largely corruption free.

The fifth issue is that though there is separation between the Executive and the Legislature, at individual level legislators hanker for executive power or at least for the authority to interfere with executive decision making and implementation. The legislators then neglect their legislative duties and because of their constant interference the efficiency and impartiality of the administration erodes. This also leads to a great deal of corruption as the citizen runs from politicians to officer and back in order to have even his legitimate work done. Therefore, we have to strengthen the separation of functions between the Executive and Legislature and to keep the legislators away from executive administration, whilst calling the Executive to account through the Legislature. For this purpose we have to insist that executive officers should function strictly in accordance with the law and mandate given to them and to do this without fear or favour, bias or personal prejudice, with a guarantee of support for all bona fide actions. Once the legislators know that they cannot influence the Executive to function according to their whims corruption by politicians to force officers to take the wrong decisions in favour of their clients will cease.

The sixth issue relates to the use of discretionary powers by officers and ministers. When I took over as the Head of the Delhi Development Authority in early 1978 I found that in the allotment of houses built by D.D.A. ninety-two percent of all allotment was done on discretionary or preferential decisions and that only eight per cent of those who applied for a D.D.A. house were served on a first-come-first-served basis. I went to the then Prime Minister, Shri Morarji Desai and he agreed that all such discretionary powers should be withdrawn. Though my minister, Sikandar Baksh was supremely unhappy because now he no longer had any discretion to make out of turn allotments this single step dramatically reduced corruption in the allotment of houses.

If the rules are unambiguous, if the policy of government is properly pronounced and publicised, if the citizen has confidence that the decisions of government will be rational and issued within the confines of the rules and the pronounced policy, then no one can expect preferential treatment and corruption will sharply decline. The problem with allocation of coal blocks or of 2G spectrum is not that government had used discretion and that, too, unwisely; the problem was that the rules and policies kept changing and the excessive discretion available at the decision making level had either been exercised correctly or there was a public perception that it has been done corruptly. Therefore, in every matter there must be a policy framework, prescribed criteria and universally applicable rules and regulations so that no one from the Prime Minister downward can exercise a discretion which is obviously whimsical or based on corruption.

The seventh issue is that the Executive seems to have lost sight of the fact that it exists only in order to ensure that the right to justice, liberty and equality enshrined in the Preamble to the Constitution is actually secured to all citizens and that the State endeavours to secure a social order for the promotion of welfare of the people as enshrined in Article 38 of the Constitution. To end corruption, therefore, every action of every officer must be judged by his superiors in the light of whether this promotes welfare and whether the matter has been dealt with judiciously. If the answer is in the negative there should be a presumption of corruption on the part of the officer concerned and he must be immediately brought under disciplinary action.

The eighth issue is one of delay in dealing with a matter which almost inevitably leads to the asking of a bribe and, secondly, the giving of a bribe just to expedite matters. Therefore, in every single matter in which there is interaction between the citizen and the officials a time limit should be prescribed on the application or proposal itself, responsibility for dealing with that case should be assigned to a particular officer and if the matter has not been disposed of within the time limit, there should be a presumption of corruption by the officer concerned, who should be immediately call to account and punished where he is found wanting.

The ninth issue is one of accountability. Whether it be the Police Manual, the General Book Circulars or the Revenue Book Circulars, in a State such as Madhya Pradesh there is a regular system of inspections prescribed, whereby superior officers constantly supervise the work of their subordinates, who were thereby forced to attend to their duties diligently. The system is virtually abandoned. What we need to do, therefore, is to create a system of interlocking accountability whereby at every level of government from the Prime Minister down officials of the executive government are assigned specific duties and areas of operation and are

held accountable for lapses, failures, mischief or downright corrupt practices. Interlocking accountability means that the immediate superior would be held as liable for the actions of his immediate subordinate as that subordinate himself. Under the British Police Act a superior police officer is liable for the action of his subordinate in the same way as an employer is liable for torts and malfeasance committed by his subordinates. If the interlocking accountability, a strong system of inspection, monitoring and evaluation and immediate action against errant officials is set in place, the citizen will certainly benefit and corruption will be reduced.

A tenth area of concern is that in India we have virtually given up on the concept of 'paap' and 'prayaschit' or sin and atonement. This means that if wrong doing is not punished then wrongdoing is at a premium and this encourages others also to indulge in wrongdoing. Therefore, the system of interlocking accountability also demands a parallel system whereby good work as adjudged by a performance index is immediately rewarded and lack of performance, delay, harassment of citizens and bribery are immediately punished. In order to do this we shall have to tighten discipline, allow superior officers to take swift departmental action against errant officials, speed up the process of investigation and prosecution of criminal offences pertaining to corruption, simplify processes so that justice is swift and quickly eliminate by a process of weeding out those officials who fail to perform or are corrupt.

We can certainly eliminate Nazarana if we give up our darbari style of sycophancy towards superiors and instead establish a relationship of equality in which it is not misinterpreted as familiarity and what goes with but discipline is not impaired. If officials and ministers are viewed as ordinary mortals there would be no question of paying them tribute and would thus end the practice of Nazarana. As for Shukrana, which means gratitude, one cannot eliminate it nor should try to do so. However, a gift given by way of gratitude has to be of very nominal value and not more than a token. If its value exceeds a prescribed amount it should be treated as a bribe and the officer concerned called to account.
