

HOW ABOUT SOME COMMONSENSE IN DEALING WITH CORRUPTION?

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I joined the Indian Administrative Service more than fifty-four years ago in 1957. Government was much less complex then, but we were already into an era of planned development and increasingly the regulatory regime of the British was giving way to a more development oriented but state driven government and economy. It was a transition from empire to republic and we of the IAS were a fairly important part of this transition. One thing, however, was clear. Both the IAS and the IPS were conscious of the fact that they succeeded the elite ICS and IP which ruled British India and that we had a very special role to play in creating a modern state, the foundations of which were both Nehru's dream of modernity and Gandhi's roots in the earth of mother India. Because we were inspired by Nehru and because we were made to feel that we were participants in the exciting adventure called nation building our motivation was national service rather than self-seeking greed. Each one of us did his best to leave his charge a little better than when he took over and cumulatively this meant that the administration tried to be people friendly and it certainly was honest. We were greatly helped in this by the fact that our leaders had come through the crucible of the independence movement and were imbued by Gandhiji's ethics of satya, sadagi and ahimsa, that is, truth, simplicity and nonviolence. Our leadership was austere, basically honest and motivated with a sense of service.

All this changed in 1967, when defections resulted in the downfall of elected governments, each defection was paid for and the concept of purchasing power came to dominate our polity. This was the beginning of institutionalised corruption and now it has pervaded every cell of the body politic and virtually destroyed our morality, our sense of values, our ethical government and our individual honesty. No longer are the All India Service motivated by a desire to serve the people, no longer are politicians the vanguard of good government, no longer are institutions bulwarks against anarchy on the one hand and authoritarianism on the other. In the process not only is good governance lost, but also even governance per se has been destroyed. It is as if the capacity to govern has eroded, but more dangerous still it is the will to govern and the desire to govern which seem to have disappeared. Government, therefore, is now more a question of occupying a seat of power, but the desire to use that power for the public good is not in evidence. Once power becomes an end in itself and there is no concern for the public good, then corruption can be the only consequence because it is through corruption that power is purchased. This is the unhappy state in which our republic finds itself today.

As young officers how did we function? For one thing there was almost constant on the job training in that our superior officers ensured that we learnt the requirements of the job we had to do, the rules, the past practices and the methods by which the objectives of government could be met. We were supervised at each stage through inspections, discussions and exercise of superintendence over us and there was a constant monitoring of performance. This close interaction with colleagues, subordinates and superiors gave cohesion to the system. This has more or less disappeared. The detailed formal inspection of subordinate officers is hardly ever done, curiosity about one's job and pride in professional competence are no longer at a premium, rendering of advice to decision makers at political levels is no longer honest, informed or rational because officers vie with each other in feeding the politicians what they could like to hear rather than what they should hear. Under these circumstances the administration is bound to crumble and the results are already visible to all to us.

I have nine mantras of how we can reform the administration, which I am reproducing below: -

1. Though we have separation of the legislature, executive and judiciary, legislators will do anything except attend to their legislative duty and instead spend all their time in interfering in the petty details of administration. Officers will do everything other than administering, spending much of their time in petty intrigue. The judiciary, perhaps forced by circumstances into an era of activism, is dabbling more and more in executive decision-making. Therefore, the first and foremost requirement of administrative reforms is to make each branch of government perform its own functions effectively. In other words, make the executive perform.
2. Because of the blurring of functions the bureaucracy, increasingly, is shying away from decision making. In turn this has diluted accountability and, therefore, implementation of policy is tardy. There must be clear-cut assignment of functions at each level of government and an insistence that each level will perform its assigned duties. Accountability in this case means that there would be no excuse accepted for failure of performance, nor would an officer be let off the hook by pleading that his superiors/politicians or vested interests prevented him from doing his duty.
3. The civil services, including the police, have to be told that they are servants of laws, rules and regulations and are expected to be impartial and faithful to the laws and the implementation of the policies of government. They are not the personal servants of anyone, including the ministers, they will tolerate no interference in what lies within their own jurisdiction, they will perform their duty according to law and the mandate given to them and they will be judged solely on the basis of performance.
4. Every level of government from the Prime Minister downwards has to be made accountable, with rewards for good work and swift punishment for failure of performance. In particular the bureaucracy has to be made aware of the consequence of its actions, good or bad, with their actions carrying instant reward and instant punishment. At present no one in India fears consequences which is why there is so much lawlessness, inefficiency and corruption.
5. In the matter of law enforcement it is only the law which will prevail, a position which must be made very clear to the District Magistrates and the Superintendents of Police throughout the country. Constitutionally law and order is a state subject, but the All India Services who man the posts of DM and SP are under the disciplinary control of the central government. Criminal law and criminal procedure, however, are included in the Concurrent List of the Seventh Schedule and, therefore, the Government of India does have a role to play even in the matter of law and order. In this behalf we must read Article 256 of the Constitution very carefully because it gives the Union Government the power to give a directive to a state which is not complying with laws which apply to the state, even if the law is framed under List II of the Seventh Schedule and has been enacted by the state legislature. For the sake of convenience I reproduce Article 256 below:

“Article 256. Obligation of States and the Union: The executive power of every State shall be so exercised as to ensure compliance with the laws made by parliament and any existing laws which apply in the State, and the executive power of the Union shall extend to the giving of such directions to a State as may, appear to the Government of India to be necessary for that purpose.”

What this means is that if the state government fails to maintain order, which it is bound to do under the Constitution and the provisions of Chapter X of the Code of Criminal Procedure which relates to the maintenance of public order and tranquility, then the central government can give a directive to the state government under Article 256. If need be a suitable amendment can be made

to the Code of Criminal Procedure under Entry 2, List III, Seventh Schedule of the Constitution, specifically empowering the central government to give suitable directives to DMs and SsP in this behalf.

6. Corruption is a major issue. We all talk of eradicating corruption but no one does anything about it. One of the major factors leading to corruption is the existence of rules and regulations which permit officials to indefinitely delay disposal of a matter before them. What we need is a very quick review, item by item, of all areas of interface between government and the people with a view to simplifying procedures and rules in such a manner that this interface is reduced to the absolute minimum and undue delay and harassment becomes so self evident that penalties can be imposed immediately for such delay. We also need to reinforce the old system of regular inspections by superior officers, with immediate remedial action taking place if it is found that the office under inspection is not functioning efficiently. Today I can state without fear of contradiction that there is virtually no system of inspection functioning anywhere in the country in any department.
7. Having looked at procedures one can then have an interlocking system in which every superior is made accountable for the manner in which his immediate subordinate is functioning. It would then become the responsibility of every superior officer to ensure that his immediate subordinate works honestly because any dishonesty on the part of the subordinate would bring immediate punishment on the head of the superior officer. In other words, make the official hierarchy at every level work as a vigilance organization. Sporadic raids by the Delhi Special Police Establishment (CBI) and other vigilance agencies only scratch at the surface of the problem.
8. If we are to have accountability, if officers are to answer for the performance and integrity of their subordinates, we must also provide a system of support for people doing their duty. Today we have a system in which officers hesitate to function because the hierarchy is broken down, the corrupt and inefficient develop lateral loyalties and such people are able to muster political support for themselves at the cost of honest officers. This has to change.
9. Administrative reforms which are not accompanied by a strong political will to curb whimsicality at political levels would be quite futile. I left the Service prematurely because I wanted to prove the point that just as officers are subject to law a Chief Minister is also subject to the same law and he cannot act whimsically or arbitrarily. Most of our present day politicians have the mistaken notion that they are anointed with holy oil and have the divine right to pass any order that they deem fit. Under these circumstances no official can function impartially or according to law. The political masters have a right to change the laws or rules, but so long as these laws and rules are there they cannot ask an official to violate them. A majority of clashes between officers and politicians take place because the politician wants the official to do something which is wrong and the official resists this. He is immediately branded as an obstructionist. Administrative reforms cannot tackle this issue because it is one which the highest political levels have to sort out”.

All these are doable, except the last point, which is also the most crucial, that is, the political will to govern. For that I have no mantra. I call this doable because though we have severely eroded our capacity to govern, the system is still basically sound and if commonsense remedies are applied we can still use this very system to rescue the republic.

The environment in which this paper is written is one in which Anna Hazare and his followers have stridently stated that only a Lokpal in the mould that they have prepared can save us. My submission is that even if a systemic change is made, unless there is a will to govern and unless the instrumentalities of government are brought on line through commonsense measures, no systemic change will work. The Lokpal will soon degenerate into the very corruption which it was created to destroy. This does not mean that an over arching watchdog body should not be created, but it should not be an instrument of witch hunting which paralyses government. In other words, if the administrative reforms suggested are implemented the Lokpal will have no work to do, which is an ideal situation because the system would have cured itself. If such a body is to be created then the Chief Vigilance Commissioner's office must be abolished and the establishment absorbed in the Lokpal. CBI in relation to prevention of corruption would then form part of the Lokpal set up. The present quibbling over what category of government servants would come under the Lokpal is meaningless because all government servants must then be subject to the jurisdiction of the Lokpal because there would be no other vigilance organisation. At the same time it should be clear that from Prime Minister downwards no one would be accountable administratively to the Lokpal, whose jurisdiction must begin only with a specific complaint of criminality. In other words, administrative decisions must be judged by administrative superiors and not by the Lokpal. This would end the controversy about whether the Prime Minister should be under the jurisdiction of the Lokpal. He enjoys no immunity from action if he commits a crime and corruption is a crime. However, the accountability of the Prime Minister for administrative and legislative actions will be to Parliament alone and certainly not to any other authority. This, again, falls within the general definition of commonsense. In the end unless the machinery of government is oriented towards governance we can never have good government, even if Anna Hazare creates a Lokpal at every street corner. This is the message which government must send out in as loud a voice as it can command. Thereafter government must stand firm and let Anna Hazare do his worst.
