

India's Tryst with Corruption Menace

By Dr. Sheo Nandan Pandey

Introduction

Corruption has come to make headlines more often now than ever. Political elite acquired notoriety much before the dawn of independence.¹ It is not again just the treasury benches. The dynamics constitutes of power to influence decisions. It transcends gender, social and economic dimensions, which is closer to Gunnar Myrdal's electrifying description of "folk lore of corruptions. Public perceptions, in its generality, hold bureaucrats, business persons, NGOs, and last but not the least, criminals as critical perpetrators of the phenomenon. There are then strikingly rich, articulate and connected set of professionals, who make, mend and mar every public debate, discourse and decision but have lent helping hands as agent provocateurs.²

There is literal dearth of micro study to portray all pervasive picture post account of the scenario. While conceptually handicapped in more than one respect, the Corruption Perception Index (CPI), brought out by Transparency International (TI), does capture panoramic view of the malaise. There is unspoken truth in the findings that the citizens pay bribes to avail essential public services for their survival.³ Of the two sets of "need based" and "basic" services, the former has been seen as more corrupt. The need based services primarily cover income tax, police and judiciary. Monopolistic nature provisioning of these services stand at the root of the problem. Basic services include health and education. The citizens have choice to opt out for competitive private owned and run institutions. However, the poor have no choice. Notwithstanding, as a large part of public spending on welfare and development programmes do not reach to the target group. Of many a manifest outcome of the phenomenon, the low benefit quotient of programmes and project have had abiding adverse impacts on the socio-economic life of the people.

¹ In 1937, a decade before the Independence, no less than the Father of the Nation, Mahatma Gandhi lamented on the working of political elites who had come to occupy the seat of power in the interim governments in different provinces. In his dismay, he is quoted to have said, "We seem to have weakened from within. I would go to the length of giving the whole Congress a decent burial, rather than put up with corruption that is rampant."

² A significant number of lawyers, charter accountants, doctors, management professionals and, of course media have of late come into light for their perverse corrupt acts. Worse that the institutions of their affiliations harp on the maxim that "Caesar's wife must be above suspicion without invoking into the fundamentals of Caesar's wife in their real life."

³ TI 2005 Survey, covering 10 sectors such as police, judiciary, land administration, municipal services, government hospitals, electricity, PDS, income tax, water supply, schools and rural financial institutions, shows that the citizens in India pay bribes amounting to Rs. 210.68 million while availing one or more services.

The paper, in its perspective, deliberates over the institutional response and efficacy of the system to handle the problem of corruptions. The assumptions include: First, the phenomenon of corruption in Indian public life crept despite the Indian Statute and the age old social value system speak against; Second, the outgrowth and sustenance much less perpetuation and oblique social acceptance of the phenomenon draw on a variety factors, some of which is universal while others quite exclusive to India; Third, the glitch in the organization and management of public utility services, law enforcement mechanism and check and balance system stand at the back of much of delinquent behaviour of different actors in the game; and, Fourth, a web of visible/invisible watchdogs, operating through and from the sanctum sanctorum of social, cultural and spiritual institutions in close coordination with legal system to instil transparency, integrity and accountability in the attitude and practices at large hold real and ultimate answer to the menace. The paper, in its perspective, sequentially focuses on: Forms of Corruptions and the Milieu; Intensity of Corruptions and the Intervening Factors; Control Mechanism and the Slip Points; and, Challenges and the Saving Grace.

Forms of Corruptions and the Milieu

Strange and yet true that the Indian public life is severely infested with the phenomenon of corruption. In his disquiet, the late Prime Minister Rajiv Gandhi saw symptoms of “institutionalization of corruption” as an outcome of “corrupting of institutions” right in 1985. “The failure to deal with corruptions”, said he, “has bred contempt for the law”. This is there despite the age old wisdom of the land and present day statutory organizational framework of governance of the nation squarely provides for zero tolerance.⁴ However, the new developments in the socio-economic organization of the nation, in particular the importance of material existence and a number of glitches in the operating system and procedure, seem to have gone into creating aberrations.

Forms of corruptions, taking place in India, qualify much of what scholarship in the field otherwise tend to suggest. The phenomenon, as elsewhere relates to abuse of “public office for private gains”. In all such events, as the TI elaborates, the public servants, be it politicians or civil servants undertake improper and unlawful means to enrich themselves or those close to them, by virtue of extraordinary power of discretion handed down to them. Arnold J. Heidenheimer spoke of three types of corrupt behaviour: First, the public office centered; Second, the market centered; and, Third, the public power centered. In the case of public centered corruptions, the perpetrators ordinarily violated public trust placed in their office. The delinquent behaviour included bribery, nepotism and misappropriation. In market centered corruptions, the officials look upon their authority to maximize personal gains by dispensing public benefits. Quite in the same vein, where it related public power centered corruptions, the officials tend to violate common interest that provides direct or indirect benefits to the perpetrators in the last go. Pioneering Indian contributors to the concern add up corrupt business persons, corrupt non-governmental organizations (NGOs) and criminals in the category of persons while are the back of the phenomenon. As public servants remain the fountain heads of violations, the Heidenheimer typology remains sacrosanct.

⁴ Indian ethos, pervading social, cultural and spiritual life of the people at large draws upon the tenets in Indian scriptures such as Ishawashopnishad, which espouses the truth that the worldly possessions belong to the Isha, the divine and hence, one had right to use them only as much as it met the bare requirement of existence with a heart and mind of giving up the obsessions of holding beyond. Notwithstanding, the country has Central Vigilance Commission in position as an apex statutory authority. There are scores of other legal provisions which prescribes stern actions.

Intensity of Corruptions and the Intervening Factors

While few and far between, the instances of one or the other kinds of the three sets of corruptions in the Indian public office did come up even during the early years of independence. A.D Gorwala Report (1951) and Santhanam Committee Report (1964) pointed fingers at the integrity of ministers and civil servants. The reports speak of relative tolerance and shielding of the miscreants. Enriching themselves through illegitimate means, practicing nepotism and securing good jobs and business options for their children and relatives and reaping other advantages inconsistent with any standard of purity then constituted common refrain among the deviants. Factors at work included a web of restrictive rules and regulation regime in face a general resource and opportunity crunch in the economy and rise of power brokers, who, at one end, served as necessary link between the system and the clientele, and thus, bore mantle of legitimate go between and on the other end, created system glitch to transparent transactions. In the bargain, discretionary powers at different ends of power centers, subject to corruptibility quotient of the individual player and accountability glitch in the system, turned out the fountain head of corrupt practices in governances.

Indian state and its institutions were then in nascent state. However, the responses were quite straight and stringent. While not exhaustive, the system response to some of the often quoted corruption cases of the era such as Jeep Scandal (1948), Mudgal case (1951); LIC-Mundhra deals (1957); Partap Singh Kairon case (1964); and, Biju Patnaik case (1965) stand testimony.

The Jeep Scandal, so to say, related to V.K Krishna Menon, the then Indian High Commissioner UK. The Indian army had placed orders for procurement of 155 Jeeps worth Rs 8 millions. They were to be used in then troubled Hyderabad and Kashmir regions. The Indian army had placed services of a Brigadier, which he bypassed and instead outsourced through an agent, Cleminsan. While the roadworthiness of the Jeeps in question was certified by Lloyds, the sulking Indian Army made an issue in accepting, and the opposition, in particular those who were ranged against the then Prime Minister Pt Jawaharlal Nehru blew it out. Even as the Jeeps remained on road for over a decade, V.K Krishna Menon, one of the most austere political people of the time, suffered the insinuation.

H.G Mudgal, a Member of Parliament, accepted Rs 1000 each on two occasions in his dealings with Bullion Merchant Association. On receiving complaints, the then Prime Minister first approached Speaker G.V. Mavalankar for a thorough parliamentary enquiry. A member of Lok Sabha wanted reference of the case to the Privilege Committee. The Speaker did not find it workable. The Prime Minister moves a resolution for appointment of an Ad-hoc Committee of the Parliament to go into the issue, which found his conduct "derogatory to the dignity of the House and inconsistent with the standards of member of Parliament". He was formally expelled from the house.

LIC-Mundhra deal remains a legend by its own right. It was the first financial scandal of independent India. With his connections, Haridas Mundhra, a Kolkata based industrialist and stock speculator, got Life Insurance Corporation (LIC) to invest Rs. 1.24 crores (US\$ 3.2 millions) in the shares of his six troubled companies such as Richardson Cruddas, [Jessops & Company](#), Smith Stanistreet, Osler Lamps, Agnelo Brothers and British India Corporation. The investment was done under governmental pressure and bypassed the LIC's investment committee, which was informed of this decision only after the deal had gone through. In the event, LIC lost most of the money. The irregularity was brought to the notice of the Lok Sabha by the ruling party member Feroze Gandhi, also the son-in-law of the then Prime Minister. The matter was disposed in record 24 day inquiry by one-man Committee of Justice

MC Chagla. Haridas Mundhra was sentenced to imprisonment. The Committee found the Finance Minister T.T Krishnamachari constitutionally responsible. He subsequently resigned. The Committee recommended trial of Finance Secretary, H. M. Patel, along with two LIC officials, L S Vaidyanathan for suspected collusion. The incident turned harbinger for the coming up of statutory Central Vigilance Commission to play pivotal role looking into the phenomenon.

Partap Singh Kairon was Chief Minister of Punjab from 1956 to 1964. While he is credited for much of the developments the state achieved, the controversy about his corrupt actions in promoting the economic interests of his sons, relatives and cohorts transcended beyond the epoch of the first Prime Minister of India. In close contrast to all other cases that found logical end, his assassination in February 1965, just two months after he resigned after being indicted by the S.R Das Commission, closed the chapter.⁵ The case of Orissa Chief Minister Biju Patnaik did not as well have logical ends in its entirety. After long last, charges of corruptions against him were investigated by HR Khanna Commission. He was indicted for awarding government contract to his privately held companies and forced to resign. Nevertheless, he resurrected in politics once again until died.

There were some lesser known cases of corruptions of the kind in the early years of independence. They included: Cycle Imports scandal (1951); BHU Funds scandal (1956); and, Teja Loans case (1960). S.A. Venkataraman, the then Secretary, the Union Ministry of Commerce and Industry was proceeded against and later jailed for accepting a bribe in lieu of granting a cycle import quota to a company. BHU fund scandal was then first of its case in an educational institution. The employees had misappropriated Rs 5 millions. Once found guilty by the court of laws, the perpetrators had to under go imprisonments. Shipping magnate Jayant Dharma Teja took loans worth Rs 20.2 millions to establish the Jayanti Shipping Company. In 1960, the authorities discovered that he was actually siphoning off money to his own account, after which Teja fled the country.

In comparison and contrast, the situation, in subsequent decades, bear out sea change, in particular in the mode, scope and end results. The political as much civil servants have literally come to operate in a sort of network orgies in contrast to individual aberrations during the early years. There are individual political players, in certain cases the political entity of their affiliations, who once vowed to fight pitched political battles with no hold barred to expose and eradicate corruptions in high places, carried out and let their kin to pursue the same course. Much the same could be said about the bureaucracy.⁶

For variety of reasons, in 1970's, despite outcry of a different order, the number of corruption cases, then making headlines in substance, were just handful. The case of public sector Indian Oil Corporation (IOC), which awarded contracts worth Rs 20.2 millions for supply of petroleum products at constant price in an epoch of falling prices to a Hong Kong based said to be non-existent Kuo Oil Co in 1976. Political storm, nevertheless took place on couple of other occasions.⁷

⁵ In his report, submitted on June 11, 1964, S.R Das added: "The commission is free to concede that a father can not legally or morally prevent his sons from carrying on business, but exploitation of the influence of the father who happens to be Chief Minister of the State can not be permitted to be a business of ... There is no getting away from the fact that S. Partap Singh Kairon knew or had more than ample reason to think that his sons and relatives were allegedly exploiting his influence and powers.....In view of his inactions in the face of the circumstances here in alluded to, he must be held to have connived at the doings of his sons and relatives, his colleagues and the governments officers.

⁶ Task Force on Vigilance have found three sets of persons in the authority: (a) those who are honest under all circumstances; (b) those who sit on the fence; and, (c) those who are corrupt under all circumstances.

⁷ Two cases bizarre cases, one Maruti License case and the other V.P Malhotra case were then talks of the day. In the former, the propriety of Sanjay Gandhi, the youngest son of the then PM, was under question for seeking license to manufacture small

1980s brought a spate of cases, the major ones were: Antulay Trust scandal (1981), Lakhubhai Pathak cheating scandal (1983) Bofors Pay-Off (1986), HDW Commissions (1987), and St Kitts Forgery (1989). Things were little different in 1990's. Counts went up 10 exposures: Airbus Scandal (1990); Solanki Exposé (1992); Securities Scam (1992); Indian Bank Rip-off (1992); Hawala scandal (1993), Sugar Import (1994); JMM Bribes (1995); Lakhubhai Pathak Paper Pulp Contract Bribery (1996); Telcom Scam (1996); Urea Deal (1996); and Coffingate (1999). The notable cases during the first decade of the new millennium included: Tehelka Sting (2001); Stock Market Scam (2001); Home Trade Scam (2002); Stamp Paper Scam (2003); Oil-for-Food Scandal (2005); Cash for Query (2005) ; MPLADS Scam (2005) Human Trafficking Forged Passport Scam (2007); Cash for Votes Scam (2008) and Satyam Computers (2008).

The list is little comprehensive. They are nor representative of different sets of orgies. There are quite a large number of exposes, both in all India and state level cases, some of which are being tried inconclusively as matters of disproportionate assets (DA). Leave aside glaring faults in the surveys of some of the professional bodies in bracketing India vis-à-vis different countries in regional and global perspectives on the basis of ill defined corruption perception index (CPI), the sweep of the phenomenon is simply astounding and tend to affect millions of people in their every day lives.⁸ The bureaucratic core to the phenomenon is much more virulent. It figures grand, middle or petty on the scale of 10 in different set up, depending on levels of control in the transaction of individual job. Levels of transparency figuring respectively nil, least and quite reckonable again on the scale of 10, depending on the levels of absoluteness with quantum of discretions in decision making go in chartering the orgies.

Framework of the Control Mechanism and the Slip Points

Discussions, as such, bear out abiding and ever increasing nature of the phenomenon. It also speaks of its unmistakable resilience to most, if not all statutory and legal safeguards in place. It is both about the political and bureaucratic actors, who tend to transgress their oath of honesty and integrity. It is symptomatic of multi level chinks in the framework of the control mechanism. In over all perspectives, it speaks of system fragility to face onslaughts of individual as much as organized orgies.

The existing check points against political operatives constitute first, the public platform of elections. The second and subsequent check points constitute of provisions of mid course intermediate and final corrections, available with the two respective houses of the Legislature at the national and provincial levels. There are then scores of statutory independent bodies including the judiciary to call the shots. Notwithstanding, there is in place the institutions of Lokpal and Lokayuktas to get to investigate and redress public grievances about corruption, favouritism and official indiscipline in administrative machinery. There impeachment provisions in respect of certain set of functionaries as well.

car. In the latter, V P Malhotra, the Chief cashier of the State Bank of India, allegedly handed over Rs 6 million to Nagarwala, at a phone call from the then PM. It has been inconclusively a whipping boy.

⁸ Transparency International and its offshoots, bank on normally held perceptions of those who are most directly confronted with the realities of corruptions. The questions put to senior business people were: How common are bribes to politicians, senior civil servants, and judges? How significant of an obstacle are the costs associated for such payments for doing business? The survey listed Courts, Customs, education System, Political Parties, Police, Tax authorities and others and asked: If you had magic wand and you could eliminate corruptions from one of the following institutions, what would your choice be? Merits of such queries apart in touching upon the heart of the problem, they were at best poised to find out the quality of handlers. They can not reflect much less pin down the actual level of corruptions.

There are then service and/ or profession disciplining authorities in the case bureaucrats, professionals and business persons.⁹ This is besides well set common laws. The Government of India, notwithstanding, has set up the Central Vigilance Commission (CVC) to advise the government, government institutions and departments in planning, executing and reforming their vigilance works. The CVC, in turn, has taken a number of steps including the task of interfacing with people at large through a website to get to the broad and specifics of the inside out to perform its charters.¹⁰ Council for Clean India (CFCI), an initiative of the CVC, has been in vogue for nearly decade to get much of the catalysts on one platform to work for prevention of the dreaded evil of corruption.¹¹

The slips in the system, notwithstanding, rule the roost. One of the discernible symptoms of the phenomenon constitute of disproportionate assets (DA), which, literally, goes along as a rule in proportion to the level of authority in decision making. The change phenomenon, both in quantitative and qualitative terms, tend to exemplify a case of one time locale specific cottage industry of delinquent action assuming subsequently the form and shape of all pervasive heavy industry with ancillaries all over the country. The perpetrators, in particular the political persons, tend to enact phoenix. Even while indicted and prosecuted, they hold potentials to romp back in public life, using different tantrum.

Challenges and the Saving Grace

Challenges in the path of stamping out the evil of corruptions are but formidable. Black money, an outright ominous end product of the whole gamut of corruptions, has come to account for 40 per cent of the Gross Domestic Products (GDP).¹² Unverifiable reports simultaneously suggests that unscrupulous industrialists, scandalous politicians and corrupt officers have since put in about US\$ 1500 billion in their private foreign accounts, which they have quite necessarily been misappropriating from time to time. The worse that the matter more often than not languishes on one excuse or the other for unimaginable period, which provides uncalled for sanctuary the perpetrators. One of the hurdles constituted of immunity provisions. One could now see silver lining after the “prior sanction provision” under Section 19 of The Prevention of Corruption Act – 1988 has been blown away and Section 197 Cr P C made redundant.

There is saving grace that the world view of an average Indian is averse of vices. The broad masses of the people has simple task to ask for transparency, accept the verdict as the rule of the game what they otherwise do in the name of their fate, burn the real life demon what they do with the mythological ones and last but not the least, get to zero tolerance for the perpetrators beyond all bounds of personal links and likes. Operational side of the campaign calls for making the institutions of democracy efficient. It will handle much of the nexus of political, bureaucratic and criminals.

⁹ The rules provide for both the cost of unbecoming behaviour once proved as well as protection against unnecessary harassments for the public servants defined for the purpose. It holds good for the central as much as state services. There are regulatory bodies dealing with the cases of corrupt practices of different professional services.

¹⁰ CVC is since a statutory authority under the CVC Ordinance of 1998. Superintendence, as its prime charter extends to vigilance function besides administrative vigilance of the administrative works of various government organizations, public sector units, and banks.

¹¹ CFCI meets periodically. It had met for the first time on 02 July 01. It had then secured commitments of CBI, Vigilance Commissioners, and Ombudsmen in the banking and insurance sectors besides NGOs to fight the malaise of corruptions hand in hand and shoulder to shoulder.

¹² N.C Vittal, Corruption and Rule of Law. Indira Gandhi Institute of Development Research (IGIDR) study titled, “India Development Report 1990-2000” earlier estimated the black money under circulation to range around 18-21 per cent of the GDP. India’s GDP then stood at Rs. 17.70.000 Crores. Unaccounted black money under circulation thus ran to whopping Rs. 3, 54,000 Crores.

Remarks:

Opinions expressed in this contribution are those of the author.



Dr. Sheo Nandan Pandey, born Jan 14, 1947, served both institutions of higher learnings and the bureaucratic set up as member of Civil Services in India. He is speaks several languages including Chinese mandarine. In area studies, China is his first love.

*ISPSW Institut für Strategie- Politik- Sicherheits- und Wirtschaftsberatung
Berlin, Germany
www.ispsw.de*