Multi-pronged Approach to Reducing Corruption

INTRODUCTION

Earlier, we outlined the administrative structures and procedures created within government to check corruption. In this regard, we discussed CVO and CBI; we also discussed preventive, punitive and surveillance vigilance. We now look at other approaches to reducing corruption. These approaches include: civil society activism; systemic economic and administrative reforms; clearly defining accountability; use of modern technology; promoting transparency; integrity pacts; ensuring accessibility and responsiveness of officials to public; complaints monitoring; and corruption risk management. We will end the chapter with a brief discussion on political aspects of corruption.

APPROACHES TO REDUCING CORRUPTION

Citizens' Initiatives and Civil Society

Active citizens can expose and reduce corruption. Civil service groups and media can also heighten common people's awareness of corruption and make them participate in anti-corruption movements. This articulation of people's sentiments on corruption gives them a 'voice'. While many groups have mobilized people against corruption, the movement of Anna Hazare enjoyed the highest visibility.

The term 'civil society' is defined in many ways. But one common definition regards them as informal, unorganized bodies and sharply differentiates them from government agencies. A wider definition includes informal and formal organizations besides private sector, media, NGOs, professional associations and informal groups of people from different walks of life.

Horizontal and Vertical Accountability

The emergence of civil society is said to have extended the traditional view of government accountability. In the traditional view, government is responsible to parliament which is an elected body of people. Thus it is indirectly accountable to the whole body of the people. Further, government actions are subject to judicial scrutiny. They have to be just, fair, equitable and follow constitutional values. Otherwise, government actions will be struck down upon facing a judicial challenge. These two forms of accountability are known as horizontal accountability. Within the executive system of government, there is internal vertical accountability. The lower rungs of executive are subordinate to the higher levels. As we mentioned above, active citizen groups can force governments into a new form of accountability.

From the early 1990s, many civil society groups in India have been active in trying to improve governance. They challenge current administrative models, test alternative approaches and share the learning from these experiences with others.

Citizen initiatives to fight corruption come from an active social consciousness. Governments can also promote an environment which enables citizens' groups to join in anti-corruption efforts. SARC has proposed the following measures to promote public participation in anti-corruption drives.

1. Inviting civil society groups to oversee government programmes
2. Establishing and disseminating service standards
3. Establishing credible complaints' redressal mechanisms
4. Assessing public confidence in anti-corruption institutions, judiciary and law enforcement for designing programmes to improve trust levels
5. Enforcing access to information
6. Educating society on the events of corruption and instilling moral commitment to integrity
7. Using public hearings in which audience learn about public work schemes of their local area and provide their own perceptions
8. Initiating media campaigns for public education and awareness on fighting corruption
9. Holding integrity workshops and public hearings to discuss problems of corruption and considering solutions
10. Periodically surveying and assessing public service delivery
11. Surveying corruption perceptions in general about government as also about its specific sectors
12. Incorporating corruption as a subject in the education curriculum and setting up websites on corruption for providing information, inviting suggestions and associating former public servants in lobbying against corruption

Citizens' Charters, if properly implemented, can cut down corruption. There are some government departments which provide services to large sections of population. In maintaining ethics in such departments, citizens could be involved. A list of visitors to such offices can be maintained. Independent professional agencies should be used to contact these persons and get their responses. These can be used to rate the offices. Citizens' interest in anti-corruption measures can be enhanced also by taking prompt action on their complaints. Long term changes in attitudes can be induced through effective educational programmes in high schools.

Another way of involving citizens in reducing corruption is to give them cash rewards for reporting corruption. It is likely to bring to light many cases of corruption. In taxation departments, reward schemes already exist for paying complainants a percentage of the income unearthed based on the information. Similar rewards should be offered to providers of information on corrupt practices. Change will come when the incentives to throw out a corrupt system become stronger than the incentives to retain such a system. The need of the hour is to have zero tolerance towards corruption.

False Claims Act

The existing provisions in the Indian Penal Code and other enactments are not adequate to enable interested citizens and civil society groups to approach the courts. The US Federal False Claims Act empowers any person who has knowledge about a fraud committed by another person or entity, to file a law suit on behalf of the Federal Government. And if the fraud is established in a court of law, the person committing the fraud is penalized and the plaintiff is rewarded with a percentage of recovery. The whole procedure is governed by rules of civil litigation and the standard of proof needs to meet civil court norms, and does not require proof beyond reasonable doubt, as in criminal cases.

As recommended by the SARC, a law on the model of the US False Claims Act should be passed in India with the following main provisions.

- ¤ Citizens and civil society groups can seek legal relief when people defraud governments by filing false claims against government.
- ¤ Any citizen can file a suit against any person or agency that makes a false claim against government.
- ¤ If the false claim is proved, then the person/agency responsible shall be liable for penalty equal to five times the loss sustained by the exchequer or society.
- ¤ The loss may be monetary or non-monetary such as pollution or other social costs. For non-monetary loss, the court would have the authority to compute the loss in monetary terms.
- ¤ The person who brought the suit shall be suitably compensated out of the damages recovered.

Social Audit

Comptroller and Auditor General (CAG) arranges for the audit of all government departments. CAG's audit looks at financial aspects of government transactions and dealings. Proper legislative authorization for expenditure, keeping of vouchers (signed receipts) for expenditure, maintenance of accounts in prescribed forms, following proper open tender processes before incurring expenditure and fully recovering all the government revenues – all these are financial aspects of audit. Audit frequently brings to light many financial irregularities.

Social audit, as separate from financial audit, is a concept which has evolved recently. While financial audit is conducted by qualified accountants and auditors, social audit is done through people's participation. It is particularly useful in ascertaining the true state of affairs about programmes which benefit large groups, such as local public works, distribution of welfare payments, and procurement of products and services for government and delivery of services to people. In social audit of these schemes, clients or beneficiary groups or civil society groups provide information on wrongdoing. Social audit helps in checking the attendance of teachers and students in schools

and hostels, staff in the hospitals and other similar programmes which provide services to people. Provisions for social audit should be made a part of the operational guidelines of all such schemes. It has already been adopted in many schemes.

Building Societal Consensus

Many problems, according to political thinkers, can be solved only through consensus. Or people in general have to agree about the existence of the problem and the methods proposed for its solution. More importantly, political parties which are supposed to articulate pro people ideologies and which wield power (on winning popular mandate) have to actively fight against corruption. Political parties only pay lip sympathy to the need for eliminating corruption. But large scale corruption has a clearly political dimension.

The Congress party's election manifesto for 2004 parliamentary elections says "... transparency in party financing and state funding of elections will help ...". It expresses other high moral sentiments. But this does not prevent its opposition to CIC's order bringing political parties under the purview of the RTI Act. Other political formations are equally vociferous in voicing their high moral purposes. But their actions hardly smell of roses. On hearing the ringing moral tones of speeches of some political leaders, one is reminded of the distinction which T S Eliot made (in an introduction to poems of John Dryden) between "pulpit pomposity and moral seriousness".

Systemic Reforms

According to IMF (Finance and Development; September 2005, Volume 42, Number 3): "A fallacy promoted by some in the field of anti-corruption and at times also by the international community is that one "fights corruption by fighting corruption" – through yet another anti-corruption campaign, the creation of more 'commissions' and ethics agencies, and the incessant drafting of new laws, decrees, and codes of conduct. Overall, such initiatives appear to have little impact, and are often politically expedient ways of reacting to pressures to do something about corruption, substituting for the need for fundamental and systemic governance reforms". These observations are similar to those of the British development economist Michael Lipton; legalistic solutions can seldom solve problems with deep social, economic and political roots. It is not possible to consign economic problems to oblivion through legislation. As an aside we may note that this warrants some scepticism about the many 'rights' and 'entitlements' now being created through various laws. Answers often lie in increasing savings, investment, productivity, output and employment. Unfortunately, the policies of UPA government seem to be guided more by social activists than by Planning Commission or the Ministry of Finance.

As we saw earlier, one can view corruption as an individual moral failing and look for solutions in improving the moral conduct of individual government servants. One can impose strict codes of conduct and prescribe high ethical values for moral guidance. One may organize training programmes for instruction in ethical decision-making. All these approaches mainly target individual government servants without significantly altering their operating environment.

Another approach to tackling corruption places emphasis mainly on the government or public systems. In this approach, the focus is on structures and processes as also on operating rules governing

decision making. We can, according to this view, attribute corruption not so much to human moral frailty as to inherent systemic weaknesses which create the opportunities for corruption.

Systemic Weaknesses

Economic Sphere

We may consider the more commonly mentioned systemic weaknesses. One is monopoly which characterizes many government systems. In monopoly a single supplier provides or sells goods and services. Government provides many public services as a monopoly. As there is no competition, consumers have nowhere else to go. This enables government servants to act arbitrarily and exact illegal payments from people. From an economic point of view, such illegal extortions represent the monopolistic profits of a monopolist as opposed to normal profits under competition. The illegal payments can also be seen as monopoly rents.

In this connection, we may note that the elaborate system of economic controls which Pandit Jawaharlal Nehru created as part of the socialistic pattern of society proved to be a breeding ground for corruption. Entrepreneurs had to seek approval from government for virtually everything. C. Rajagopalachari, a brilliant thinker and leader of Independence movement, opposed the whole economic philosophy calling it "the license-quota-permit raj".

The economic logic here is simple. Those who secure licenses, quotas or permits virtually get hold of scarce economic resources at a price administratively determined by government. Now, this official price is less than the market price which is determined by actual demand and actual supply of the commodity. There is a 'premium' on the price of that commodity which is equal to the difference between the market price and the official price. The recipients of the scarce commodity are naturally willing to pay some amount from the profit they gain by securing the commodity at less than its market price. Many controlled industrial raw materials, cement, sugar, car and gas allotments and food grains supplied through public distribution system – all belonged to this category.

A similar situation prevailed in the foreign exchange market in which official exchange rate of rupee overvalued it in terms of hard currencies like dollar or yen. In other words, recipients of foreign exchange quotas got foreign currencies far below their market rates. No industry could be started without a licence. This simply meant restricting competition and promoting monopolistic trends. Many economic reforms introduced deregulation of industry and trade and removed economic controls. This type of reform removes the incentive for giving bribes.

Administrative Sphere

The above mentioned two areas fall within economic sphere. We will now consider two areas which fall more directly within administrative sphere. One arises from an inherent feature of the modern administrative state. Its welfare orientation has created huge bureaucracies and vast public service delivery systems. These systems are riddled with financial and managerial problems. These have in turn led to serious complaints about service quality. The problem has become acute in almost all advanced countries including USA and UK. But political leaders are still luring voters with promises of more and more cheap services.

Besides the above syndrome, discretionary decision-making is seen as another major source of corruption. In theory, government decisions at various levels are objective in the sense that they rely on a set of impersonal rules and operate equally as between similarly situated individuals. However, in practice no set of rules no matter how exhaustive can cover all possible cases. Hence, rules cannot entirely guide decisions. There is a tendency for corruption to follow in the wake of discretion. Hence, suggestions are often made for reducing discretionary decision-making.

Lack of accountability is another frequently cited reason for corruption. As we know, the RTI Act, citizen's charters, bill on provision of services to people and redressal of their grievances are among the measures for promoting accountability of government servants. SARC gives an interesting formula (of American economist Robert Klitgaard) on corruption which links it to the operating environment of civil service:

$$Monopoly + Discretion - Accountability = Corruption$$

Case Study

There is a shortage of housing plots in the city. Government has released some vacant public land for construction of flats. The officials recommend that the flats after construction should be allotted at market prices. But as the demand is huge, they recommend a computerized draw for allotment. While accepting the proposal, the minister suggests that 20% of flats should be allotted from his discretionary quota.

Question

In this situation, what should the concerned officers do?

1. They should simply follow the orders of the minister.
2. They should tell the minister that the proposed discretionary allotments will lead to serious controversy.
3. They should delay the matters.
4. They should oppose the decision tooth and nail.

Discussion

The first alternative is inappropriate. The officers have to reiterate on file the risks involved in the process. They should cite examples from CAG's audits and reports of anti-corruption agencies showing how discretionary quotas are economically unjustified, and lead to abuses.

The second alternative is correct. The minister's proposal will lead to favouritism and corruption. This case shows a typical situation of extreme shortage of housing---a much desired item. There will be an inherent tendency for rich people to pay money to swing allotments in their favour. The houses will command a premium since the demand for them far exceeds supply. The shortage cannot be made up in the short run. This situation contains inherent possibilities for corruption.

There is another problem in this situation. Basically under law, any discretionary quota will be arbitrary. Even for making allotments from discretionary quota, criteria and procedures have

to be laid down. There will be great pressure on the minister and the concerned officials to make exceptions to criteria and procedures. It is better not to create such situations. The best option will be to first lay down reasonable conditions for eligibility of flats and then allot them by randomised computer lottery. There can be some restrictions on transfer of the flats by allottes.

The third alternative is inappropriate. It will only postpone the implementation for some time. The problem will continue to linger. After some time, the minister will lose patience, and demand implementation of his decision.

Officers should not refuse to implement orders after a point. Once they again point out the problems which will arise from the decision, they should follow the minister's orders.

Recent Measures

Two Reforms

Corruption has to be tackled with both penal and preventive measures. Preventive steps reduce opportunities for corruption by creating transparent systems, by increasing accountability, by reducing discretion and by rationalizing procedures. Recent years have seen the introduction of many such systemic reforms which have improved systems and processes.

Two such reforms are:

Passenger Bookings on Indian Railways

Railway authorities have computerized passenger bookings and introduced 'on-line' booking and e-ticketing. This has eliminated the middlemen, decongested booking offices and made the Railway reservation process transparent.

Common Entrance Test (Karnataka)

This has made possible a timely and transparent merit-based selection in professional colleges.

Increasing Competition

We turn now to another approach which relies on reducing monopolistic elements in provision of goods and services. Government is the sole service provider in many sectors – a situation which breeds arbitrariness, complacency and corruption. Introducing competition in providing public services can reduce corruption. Telecom sector deregulation is usually cited as a case in point.

Till recently, telecommunication sector was a complete government monopoly. In telecom sphere, the Department of Telecommunication acted as the policy maker, service provider and the licensor. Telecom sector policy reforms introduced competition, allowed private players to provide international and national long distance services on landlines and on cellular devices. Policymaking has been separated from provision of services. The reforms led to sharp increase in teledensity, drastic reduction in the cost of services and major decline in corrupt practices.

While undoubtedly reducing 'retail' corruption at the interface between consumers and lower telecom bureaucracy, the policy reform also led to possibly the largest corruption scandal in post-independent India. We cannot discuss this matter in detail here. However, it relates to transfer of

valuable public resources (spectrum in this instance) to private entities at throwaway prices. To this end, various stratagems were adopted. One was adoption of prices of a past period which were bound to be lower than the current market prices and the absence of a proper price discovery mechanism. The second device was the creation of dummy companies (by existing entities and others) for either circumventing tender conditions or for making a 'killing' through post acquisition sale. Finally, the owners of the dummy entities, who got the spectrum, transferred it indirectly in the guise of dilution of their shareholdings in the dummy companies rather than through direct sale of spectrum. Basically, they sold off the spectrum to other genuine telecom operators at a windfall gain. 2G scam is an instance of byzantine commercial intrigue. Of course, one has to await the outcome of judicial proceedings in the matter.

The process of breaking up monopolies and introducing competition often leads to introduction of private agencies as service providers or suppliers of commodities. To prevent malpractices by private agencies, regulatory agencies such as telecom regulatory authority are necessary. Regulatory agencies ensure that the private agencies meet the prescribed service standards. Further, if in any department, monopoly of service functions exists, the scope for introducing competition should be considered. This kind of exercise has to be undertaken at central, state and local levels. Competition need not be through introduction of private agencies; it can be between government departments. It is necessary to have multiple agencies for providing any services.

Streamlining Procedures

The complexity of official work methods also arises from the hierarchical structure of government organization and the multiple levels involved in decision making. Any matter is examined at many levels, leading to delay and diffusion of responsibility and accountability. This leads to a typical form of corruption known as 'speed money'. It means that the concerned official is paid money not for favouring any particular party but to quickly push a file on its onward journey to the next level in the hierarchy. One way of reducing delays and corruption will be to reduce the number of levels at which a matter is processed.

As we mentioned earlier, one way of simplifying procedures is to provide the common services which citizens require at one point and in a single stage. This is known as the system of single window clearance or one-stop service centre. A successful example is Andhra Pradesh's E-Seva model. E-Seva provides the services of 13 state and local government organisations, 3 central government organisations and 9 private sector organisations under one roof. The services that E-Seva offers include the payment of public service bills, provision of birth and death certificates, payment of property tax, train and bus reservations, private mobile phone bill payments, receipt of passport applications and, transfer of shares.

'Positive silence' sanctions represent another means of simplifying procedures from the citizen's point of view. These are also known as deemed approvals. Government regulations lay down many approvals which people have to take before starting any activity like opening a shop. In positive silence sanctions if the applicant does not receive a reply from the concerned departments by a stipulated time, he is deemed to have received the approval and can start with the work. Bureaucracies

sometimes circumvent deemed approval procedures also. They refuse the application on the last date on flimsy grounds. Or they harass the individual who carries on with his work on the basis of the deemed approval. But deemed approvals certainly put pressure in most circumstances on government officials to decide a matter within a definite time period.

Official methods for processing licenses, permits and registrations were devised long ago. They are complex and involve documentation requirements which baffle common citizens. They create a system in which middlemen and the corrupt flourish. To reduce corruption, departments, should cut down procedural requirements to the minimum.

Using Information Technology

Information is a vital service which citizens need from government agencies. Information and Communication Technology (ICT) has transformed the traditional methods of storage, transmission and retrieval of information. Information can now be provided speedily and without human interactions. Notable progress has already made in providing access to information and data, in building management information systems and in electronic service delivery. Many transactions between government departments, between government and citizens and between government and business have been computerized.

ICT can reduce corruption by delivering information at great speed with almost no face to face contact. We have already seen how use of information technology can cleanse traditionally corruption prone areas of administration. We will consider one notable example. It is the Gyandoot project in Madhya Pradesh. It is based on a low cost intranet linking various market centres and villages. Local youth run kiosks on commercial lines charging a user fee. The kiosks render services such as – agricultural produce auction centre rates; copies of land records; online registration of applications; online public grievance redress; village auction site information; and updated information regarding beneficiaries of social security pension, rural development schemes and government grants of various kinds. The most sought after information (95%) was on agricultural produce rates, land records and grievance services. Gyandoot project empowered local communities and reduced corruption.

Promoting Transparency

'Transparency' signifies openness and accountability of administration. An organization is transparent when its decision-making and mode of working is open to public and media scrutiny and public discussion. A transparent system of administration encourages public participation in government's decision-making processes. It is especially useful in promoting grass root level democracy. RTI Act is the foremost measure that government took for promoting transparency in administration.

Integrity Pacts

'Integrity pacts' are added to public contracts to reduce scope for corruption. Governments are huge purchasers of goods and services. They make purchases by floating tenders which seek prices from sellers for supply of goods of given specifications. Ideally the tenders have to follow open competitive bidding process in which all qualified producers or sellers or suppliers can participate. The contract is awarded to the lowest responsive bidder. This simply means that the contract is given to the supplier who offers the lowest price and accepts all the conditions of the tender.

Contracts cover many areas – execution of works, supply of commodities and provision of services. Major contracts can be very complex involving intricate financial, commercial, technical, legal and managerial aspects. They often run into many volumes. We need not get into these complexities. The short point is that major contracts can be highly lucrative. The stakes are high, competition is cutthroat and the bidders are willing to pay kick backs to get the contract. In India, huge purchases are made by Ministries like Defence and Railways. In the recent 'railgate' scam, one officer wanted posting as a Member of Railway Board in a particular operational area or jurisdiction. This position as Member involves processing tenders running into tens of thousands of crores. Corruption in contracts is a 'big ticket item' and the means of draining huge amounts from public exchequer into illegitimate channels.

Integrity pact is an agreement between the public agency procuring goods and services and the bidder for a public contract. Through the pact the bidders give assurances that they have not paid and shall not pay any illegal gratification to secure the contract in question. From its side, the public agency calling for bids commits to ensuring a level playing field and fair play in the procurement process. Such pacts often involve supervision and scrutiny by independent, outside observers. Such pacts increase transparency and confidence in the processes through which Government and public sector units conclude major deals. Many national legal systems now recognise such pacts; ONGC signed a MoU with Transparency International India and the CVC in 2006. The revised Defence Procurement Procedure Manual, 2006 provides for adoption of an integrity pact in all defence contracts and procurements of more than Rs. 300 crores.

Government organizations are reluctant in adopting integrity pacts. Such pacts have an uncertain status in our legal framework. Government needs to clarify the legal status of the integrity pacts and build them into government transactions covering major tenders.

Reducing Discretion

Discretionary powers of government, especially at lower levels, increase the scope for corruption. Opportunities for corruption can be reduced by; (i) reducing discretion; (ii) by maximizing transparency; and (iii) by introducing strict accountability for actions. Effective anti-corruption reforms have to reduce discretionary benefits which public officials control.

One instance of improved transparency is the new policy for transferring teachers in Karnataka. Every year nearly 15000 school teachers seek transfers to places of their choice. Applications are sent to multiple authorities necessitating action at many levels. The process of decision-making was non-transparent and riddled with corruption. In the new system, applicants have to give reasons for seeking transfer. Their applications are arranged in a priority list centrally. A computer-generated list containing the names of transfer seekers and their ranking (based on the reasons for transfer) is published. Objections are invited and considered. This scheme has considerably reduced corruption.

Following measures will help in reducing corruption which arises from discretionary use of authority.

¤ Discretion can be eliminated from many governmental activities. All such activities could be automated and supported by IT. Registration of births and deaths and recruitment of teachers based on marks secured in qualifying exams are examples of such activities.

¤ Where it is impossible to eliminate discretion, the exercise of powers should be regulated by guidelines to minimize discretion. Effective checks and balances should be built over exercise of discretion.

¤ Decision-making on important matters should be assigned to a committee rather than to an individual.

Supervision

Governments have a hierarchical structure in which each functionary reports to one above him. Each officer has to supervise the working of his subordinates. Unfortunately, supervision in government is lax. Hardly any corruption cases arise from complaints of officers against their subordinates. Controlling corruption in an office or an organization should primarily be the responsibility of the head of the office. Supervisory officials should take preventive steps to minimize corruption among their subordinates. They should not regard it as the function of external vigilance agencies. Pro-active steps for controlling corruption consist of random inspections, surprise visits, confidential feedback from citizens or clients, putting procedures in place which make it difficult to seek bribes and use of decoy clients.

Government departments buy large quantities of various materials. These include: stationery, computer accessories and office equipment, consumables, lighting and sanitation items, drugs, pharmaceuticals, hospital requirements; clothing requirements of hospitals, uniformed services, educational institutions and hostels; books and other educational accessories and construction materials. These transactions create money making opportunities through price manipulations. Reviews or checks could be conducted internally to ascertain prices paid to different agencies to discover instances of suspiciously exorbitant payments. Similar comparative analysis could also be useful in revenue generating departments which obtain periodical returns from citizens, such as various tax departments.

Corruption occurs when a public servant commits illegal acts to benefit a citizen. Passing an illegal assessment order favouring a tax payer is an example. "Speed money" is a form of corruption for acting quickly in a matter. Corruption may also happen through deliberate negligence of a public servant – such as allowing an illegal consignment through customs. Supervisory officials should, after studying the patterns of corruption in their organizations, create an institutionalized system to prevent corruption.

Ensuring Accessibility and Responsiveness

Corruption can be reduced if government servants are accessible to applicants and promptly respond to their needs. Citizen's charters are one means to a responsive administration. Each department should prominently display the facilities, concessions and rights which it offers to public along with the details about authorities who are competent to grant them together with the procedure for securing them and getting their grievances redressed. Service standards need to be defined. Appeal procedures available to customers who want further redressal should also be specified.

Transparency in government offices can be improved in many ways. Some of these include: help desks at the cutting edge level, prominent display of names of officials, automatic call centres and simplified computerized systems of service delivery. Accessibility of government servants to the

public should be so designed as to ensure regular, time bound and courteous interaction between the citizens and official functionaries. Public interaction should be limited to the head of office and some designated officers. This can be supported by a 'single window front office' for providing information.

Monitoring Complaints

If public complaints are handled quickly, the incidence of corruption will come down. But complaints are seldom handled with due care. While public offices in India have complaint monitoring systems, they often do not work.

All offices having large public interface should have an online complaint tracking system. If possible, this task of complaint tracking should be outsourced. There should be an external, periodic mechanism for 'audit' of complaints in offices having large public interface. Apart from enquiring into each complaint and fixing responsibility for the lapses, if any, the complaint should also be used to analyse the systemic deficiencies so that remedial measures can be taken.

Accountability of Civil Servants

Lack of clear accountability of civil servants is often said to be a cause of corruption and misgovernance. The administrative system needs at every level of its structure a clear assignment of duties and responsibilities. Then only can a government servant be held accountable for the way he does his job. Duties have to be worded clearly and should also spell out the supervisory responsibilities of the controlling officers. The assignment of responsibility has to go up to the top of the hierarchy. This will create an interlocking accountability chain which forces government servants at every level to function efficiently.

The system needs an in-built system of rewards and punishments with objective criteria which can eliminate arbitrariness and subjectivity in granting rewards or awarding punishments. At present, incentives to diligence and efficiency are weak; shirkers, non-performers and the corrupt fear no adverse consequences. There is no performance audit of officials now; the old system of awareness in higher echelons of an officer's strengths, weaknesses and reputation is also missing. A robust performance audit to periodically monitor and objectively evaluate the performance of officers at various levels is needed.

Corruption Risk Management

Corruption risks in government revolve around various factors. First, an office with discretionary powers, public dealings and large project budgets offers scope for corruption. Offices without these features offer little scope for corruption. One may classify offices as susceptible to 'high risk of corruption', 'medium risk of corruption' and 'low risk of corruption'. For instance, the post of a tax assessing officer or an inspector at an inter-state border check-post could be classified as a 'high risk position', whereas the position of an official at an inquiry counter is a 'low risk position'. Government servants jocularly refer to these as 'wet' and 'dry' posts.

Secondly, levels of integrity of individual government servants can vary; some are absolutely upright; others are greedily grasping; and some others are opportunistic and succumb when the bait is attractive and the chances of detection seem remote. They resemble the wary transgressor of

the Bible. They can be classified from corruption proneness as 'low risk', 'moderate risk' and 'high risk personnel'. To reduce possibilities of corruption, the 'low risk' personnel have to be posted to offices with 'high risk of corruption'.

Risk profiling of government officials is difficult because annual confidential reports seldom contain frank assessment about integrity. One suggestion is that a committee of 'eminent persons' can be entrusted with risk profiling officers after they have completed ten years of service, and then once in every five years. The committee can base its findings on the performance evaluation of the officers, their self-assessments, reports from the vigilance organization and confidential peer evaluation.

Some methods of risk profiling rely on integrity tests. Some developed countries apply these tests to identify suspected corrupt persons. As part of it, the candidate has to answer various questions. New York Police Department and London Police use such tests. Integrity tests, like all tests, are imperfect, and can lead to wrong conclusions and are thus not a foolproof method to evaluate integrity of a person. Therefore, these can be used as one of the inputs while risk profiling an officer.

POLITICAL CORRUPTION

Elected leaders direct the legislative and executive wings of government. Hence, the standards which they adopt greatly influence governance. Our national leaders were motivated by political idealism during the independence movement. However, soon after independence, political leaders abandoned the high moral ground.

The erosion of ethical values is manifested in various ways. Political parties raise money illegally for elections, use illegitimate money in elections and exceed the ceilings on election expenditure fixed by the Election Commission. During elections, political parties resort to unfair means such as impersonation, booth-capturing, violence, inducements and intimidation. Floor-crossing after elections (change of political affiliations by members to get into power) and abuse of power in public office have become common over time.

This process is known as criminalization of politics and 'participation of criminals in the electoral processes' has become widespread. Many reasons account for growth of crime, violence and of 'mafia' power in various sectors of economy. The main reasons are:

¤ Flagrant violation of laws
¤ Poor quality of public services and the corruption in their delivery
¤ Protection for law-breakers on political, group, class, communal or caste grounds
¤ Partisan interference in investigation of crimes, poor prosecution of cases, inordinate delays lasting over years and high costs of judicial process
¤ Mass withdrawal of cases, indiscriminate grant of parole, etc.

Given this abysmal state of affairs, some criminals have begun to dispense simple, speedy justice, and have worn the mantle of Robin Hood. Based on this influence, they could enter politics and elections. This gave them (and the political parties they joined) the opportunity to influence crime investigations, to convert policemen into allies, and to secure votes by using money and muscle power and by interfering in crime investigation or prosecution. In this process, political parties

and criminals who join them gain at the cost of public good and governance. This situation may not prevail everywhere. But it is significant that the Election Commission declared that one in six legislators in India faced grave criminal charges. Political parties are ready to go to any lengths in order to gain political advantage. For example, recently the Utter Pradesh Government withdrew cases of terrorism against some individuals. The High Court, however, reversed the order.

Huge illegal election expenditure also fuels corruption. Ceilings have been fixed for election expenditure and attempts made to secure their enforcement, but with little effect. Donors who make contributions to political parties recoup them manifold through political favours. This process engenders a chain reaction in which illegal funding and corruption become the drivers of political process. It naturally erodes confidence in the political and administrative system and creates an atmosphere of pervasive cynicism. The recent '2G scam' and 'Coalgate scam' — though *sub judice* or pending in courts — are typical instances of political corruption. Of course, they also involve tripartite collusion between political leaders, civil servants and industrialists. The anti-corruption movement of Anna Hazare, though short lived, testifies to intense public revulsion towards corruption. The Second Administration Reforms Commission (SARC) observes, "Cleansing elections is the most important route to improve ethical standards in politics, to curb corruption and rectify maladministration."

Recent Improvements

Over past twenty years, many electoral reforms have been introduced. Some observers claim that in the past decade India has witnessed more political reform than any other large democracy since the Second World War. We will now briefly outline these reforms.

Improvement in Accuracy of Electoral Rolls

- ¤ The Election Commission made voter registration more accessible to voters.
- ¤ Printed electoral rolls/CDs have been made available for sale.
- ¤ Computerization of entire electoral rolls of over 620 million voters has started.
- ¤ Photo-identity cards have been given to most of the voters.
- ¤ Electoral rolls have been improved by adding left out voters and by removing bogus names.

Disclosure of Antecedents of Candidates

- ¤ The Supreme Court has directed that a candidate seeking election should declare if he has been convicted by a court and if any criminal case is pending against him.
- ¤ The court further directed that a candidate has to file a declaration of assets and liabilities, including those of his family members. This would serve as a check at the time of the next elections.

Disqualification of Persons Convicted of Criminal Offence

- ¤ According to the Representation of the People Act, no one convicted in a criminal offence can contest elections. The Supreme Court clarified in 2005 that this provision will govern all candidates irrespective of their status as members of legislature or otherwise at the time of conviction.

Enforcement of the Code of Conduct

¤ During elections, political parties have to follow a code of conduct. Its purpose is to ensure free and fair elections. Earlier, it was mostly a voluntary code. The Election Commission has made the Code of Conduct for elections binding in all respects. It gave many directions regarding timings of campaigns, prohibition of festoons/cutouts, insistence on daily expenditure statements, appointment of a large number of observers, ordering of re-poll in specific polling booths and other such steps.

Reduction in Size of Council of Ministers

The first Administrative Reforms Commission recommended that the size of the council of ministers should be limited to 10% of the strength of the Lower House in Parliament/State legislature. The Constitution (Ninety-first Amendment) Act, 2003 increased this limit to 15%. The idea is to curb the normal tendency to have a jumbo sized ministry. It was a popular joke that the size of one AP cabinet was as large enough to virtually fill up the then recently introduced Air Bus aircraft.

According to the SARC, these steps had no visible impact on criminalization of politics, on the illegal and excessive use of money in elections, on disguised forms of inducements and patronage like chairmanships and memberships of public undertakings and the anomaly of legislators functioning as executives. We will now turn towards other important measures proposed or taken to reduce political corruption.

Reform of Political Funding

Private donations are a major means of funding for political parties. There are three models of government funding for political parties and elections. In the minimalist model, followed in UK, Ireland, Australia, New Zealand and Canada, elections are partly subsidized usually through specific grants or state rendered services. Candidates are accountable to the public authority for reporting and full disclosure of expenditure for the limited election period. The second, maximalist model of government funding, as in Sweden and Germany, supports both elections and other party activities. It also enforces internal democracy and transparency. The third model is based on part-funding of party activities and elections with matching State contributions. France, Netherlands and South Korea follow this pattern. US is a variant of the same with election funding being largely private and subjected to strict reporting and disclosure requirements as well as limits on contributions.

Indian Context

The Representation of the People Act imposes ceilings on election expenditure. In 1969, company donations to political parties were banned. However, the Companies Act was amended in 1985 to permit such contributions. The Dinesh Goswami Committee on Electoral Reforms set up in 1990 recommended limited government support in kind, for vehicle fuel, hire charges of microphones, copies of electoral rolls etc. But it also recommended a ban on company donations to political parties. Later, the Supreme Court made it necessary for political parties to file returns under the Income Tax and Wealth Tax Acts. The Court also clubbed (in 1996) expenditure by third party(s) as well

as by the political party under the expenditure ceiling limits prescribed under the Representation of People Act.

The government also appointed (in 1999) the Indrajit Gupta Committee on State Funding of Elections. The committee recommended partial state-funding mainly in kind. But the National Committee for Review of the Constitution recommended that state-funding of elections should be introduced only after introducing better regulatory mechanism for political parties.

Parliament passed a law in 2003 on government funding of political parties based on the reports of Dinesh Goswami Committee, Indrajit Gupta Committee, 1999 and of the Law Commission of India (on Reform of Electoral Laws, 1999). Its main provisions are the following:

- ¤   Full tax exemption to individuals and corporates on all contributions to political parties.
- ¤   Exclusion of the travel expenditure of political party leaders from election expenditure.
- ¤   Disclosure of party finances and contributions over Rs.20,000.
- ¤ Indirect public funding to candidates of recognised parties – besides free supply of electoral rolls (already permissible and such items as the Election Commission may decide in consultation with the union government).
- ¤ Equitable sharing of time by the recognised political parties on the cable television network and other electronic media (public and private).

SARC has recommend partial state funding of political parties to reduce the scope of illegitimate and unnecessary funding of election expenditure.

Tightening of Anti-defection Law

Indian political system has been plagued by defections. Parties, in need of additional members, for securing or consolidating their majority try to win over members of other parties to their side. It is a mode of political manipulation to advance party or individual interest. Defections are secured by inducements, threats and cold cash payments. Defection is obviously a source of political corruption.

Government passed an anti-defection law in 1985 for disqualifying the defecting members of a party from holding their legislative membership. But this was linked to a threshold limit of defecting members. Disqualification operated only if the group of defecting members formed less than one third of the party's legislative strength. If the number exceeded this threshold, no disqualification was incurred. It was argued that defection, regardless of the number of defectors or the political context is inherently immoral.

The 91st Amendment to the Constitution made in 2003 remedied the situation by changing the provisions made in 1985.

As per the 1985 Act (Tenth Schedule to the constitution), a 'defection' by one-third of the elected members of a political party was considered a 'merger'. Such defections were not actionable against. The Dinesh Goswami Committee on Electoral Reforms, the Law Commission in its report on "Reform of Electoral Laws", and the National Commission to Review the Working of the Constitution (NCRWC) all recommended the deletion of the Tenth Schedule provision regarding exemption from disqualification in case of a split.

Finally the 91st Constitutional Amendment Act, 2003, changed this. As a result, at least two-thirds of the members of a party have to be in favour of a "merger" for it to have validity in the eyes of the law. "The merger of the original political party or a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger," states the Tenth Schedule. Hence, the process of defection has become very difficult

The Election Commission has recommended that the question of disqualification of members on the ground of defection should also be decided by the President/Governor on the advice of the Election Commission. Often, matters are deliberately delayed in legislative bodies even in cases of patent defections. SARC has endorsed this recommendation.

Disqualification

Candidates or legislators incur disqualification only if they are actually convicted in a court of law. As the criminal justice system is marked by inordinate delays, disqualification after conviction is inadequate. Some candidates face grave criminal charges like murder, abduction, rape and dacoity. These are crimes unrelated to legitimate political agitations. Then it becomes necessary to reconcile the candidate's right to contest and the community's right to good representation.

Normally, political candidates should not be disqualified on flimsy grounds or for political reasons. It is the people who have to decide the fate of candidates in elections. Elimination of unwanted candidates by indiscriminate disqualification smacks of dictatorial methods, and can derail democratic processes.

SARC recommends that in the present Indian context persons facing grave criminal charges framed by a trial court after a preliminary enquiry should be disallowed, until they are cleared of charges, from representing the people in legislatures. But it is necessary to guard against political vendetta and victimization of people facing charges related to political agitations.

A draft ordinance of July 2002, following a Supreme Court judgment, provided for disqualification of candidates facing charges related to grave and heinous offences. The heinous offences listed were murder, abduction, rape, dacoity, waging war against India, organized crime and narcotics offences. It will also be reasonable to disqualify persons facing corruption charges, provided the charges have been framed by a judge/magistrate after prima facie evidence. As recommended by the Election Commission, as a precaution against motivated cases, it may be provided that only cases filed six months before an election would lead to such disqualification.

False Declarations

At present, false statements relating to preparation/revision, inclusion/exclusion in electoral rolls are electoral offences. The Election Commission has recommended that all false declarations before the Returning Officer, Electoral Officer, Chief Electoral Officer or the Election Commission should be made electoral offences.

Publication of Accounts by Political Parties

Political parties have to maintain proper accounts of their income and expenditure and get them audited annually. This should be made into a law. The audited accounts should be available for information of the public. It may be recalled that the Central Information Commissioner has recently held that political parties are covered by the Right to Information Act.

Coalition and Ethics

Coalition politics has become important in Indian polity in recent years. Coalitions arise in a multi-party system when a single party is unable to get a clear majority in the Legislature. If coalitions are to be legitimate, the coalition partners need to agree on social and economic policies. The agreement has to be announced before the election or formation of the coalition government.

The moral base of coalition government is lost when the coalition parties change partners before the full term and form new coalitions driven by opportunism and craving for power. The coalition's common programme adopted before the election or before forming government becomes a casualty. To maintain the will of the people, provision should be made to prevent opportunistic redrawing of coalitions between elections. A constitutional amendment should be made so that any change in the political composition through realignments of parties results in fresh elections.

Summary

- Controlling corruption only through administrative vigilance is very difficult.
- It requires a multi-pronged approach - with public participation and systemic economic and administrative reforms.
- Civil society groups have been active in recent times in anti corruption movements.
- Some government departments provide services to large sections of population. Independent professional agencies should be used to contact these persons and get their responses. These can be used to rate the offices.
- A law on the model of the US False Claims Act should be passed. Under this law, any citizen can file a case on behalf of the government if he comes to know that someone has defrauded the government. If he wins the case, he gets a part of the money returned to government.
- Provisions for social audit should be introduced in all schemes which have many scattered beneficiaries. Social audit unlike CAG audit is based on information which beneficiaries provide.
- It is not possible to consign economic problems to oblivion through legislation. As an aside we may note that this warrants some scepticism about the many 'rights' and 'entitlements' now being created through various laws. Answers often lie in increasing savings, investment, productivity, output and employment.
- According to one view, corruption arises not so much from human moral weakness as from inherent systemic weaknesses which create the opportunities for corruption.

¤ One such problem is monopoly which characterizes many government systems. Government is the single supplier of many goods and services.

¤ As there is no competition, consumers have nowhere else to go. This enables government servants to act arbitrarily and exact illegal payments from people.

¤ Government is the sole service provider in many sectors – a situation which breeds arbitrariness, complacency and corruption. Introducing competition in providing public services can reduce corruption. Telecom sector deregulation is usually cited as a case in point.

¤ One way of reducing delays and corruption will be to reduce the number of levels at which a matter is processed.

¤ 'Positive silence' sanctions represent another means of simplifying procedures from the citizen's point of view. These are also known as deemed approvals. Basically, when an applicant's request is not decided within a specified time, it is deemed to be given.

¤ The modern administrative state's welfare orientation has created huge bureaucracies and vast public service delivery systems. These systems are riddled with financial and managerial problems. Corruption is a common problem in such systems.

¤ Discretionary decision-making is another source of corruption. Effective anti-corruption reforms have to reduce discretionary benefits which public officials control.

¤ Lack of accountability also leads to corruption.

¤ One way of simplifying procedures is to provide the common services which citizens require at one point and in a single stage. This is known as the system of single window clearance or one-stop service centre. A successful example is Andhra Pradesh's E-Seva model.

¤ ICT can reduce corruption by delivering information at great speed with almost no face to face contact.

¤ A transparent system of administration encourages public participation in government's decision-making processes. It also reduces corruption.

¤ Corruption in contracts is a 'big ticket item' and the means of draining huge amounts from public exchequer into illegitimate channels.

¤ Integrity pacts are added to public contracts to reduce scope for corruption.

¤ Integrity pact is an agreement between the public agency procuring goods and services and the bidder for a public contract. Through the pact the bidders give assurances that they have not paid and shall not pay any illegal gratification to secure the contract in question. From its side, the public agency calling for bids commits to ensuring a level playing field and fair play in the procurement process.

¤ Controlling corruption in an office or an organization should primarily be the responsibility of the head of the office. Supervisory officials should take preventive steps to minimize corruption among their subordinates.

¤ Government departments buy large quantities of various materials. It is necessary to align purchase prices (and quality) to market prices.

¤ Corruption can be reduced if government servants are accessible to applicants and promptly respond to their needs. Citizen's charters are one means to a responsive administration.

¤ All offices having large public interface should have an online complaint tracking system.

¤ It is necessary to create an interlocking accountability chain which forces government servants at every level, from top to bottom, to function efficiently.

¤ To reduce possibilities of corruption, honest personnel have to be posted to offices with 'high risk of corruption'.

¤ Political parties raise money illegally for elections, use illegitimate money in elections and exceed the ceilings on election expenditure fixed by the Election Commission. During elections, political parties resort to unfair means such as impersonation, booth-capturing, violence, inducements and intimidation. Floor-crossing after elections (change of political affiliations by members to get into power) and abuse of power in public office have become common over time. This process is known as criminalization of politics.

¤ Huge illegal election expenditure also fuels corruption. Donors who pay money to political parties recoup it manifold through political favours. This process engenders a chain reaction in which illegal funding and corruption become the drivers of political process.

¤ Over past twenty years, many electoral reforms have been introduced.

¤ The Supreme Court has directed that a candidate seeking election should declare if he has been convicted by a court and if any criminal case is pending against him.

¤ Parliament passed a law in 2003 on government funding of political parties. As details are given as bullet points, there is no need to repeat them.

¤ Disqualification on account of defection did not apply if the number of defectors exceeded one third the strength of the party membership in the legislature. The 91st Amendment to the Constitution made in 2003 makes it mandatory for all those switching political sides – whether singly or in groups – to resign their legislative membership.

PRACTICE QUESTIONS

1. What are the measures that government should take to enable civil society groups and the public to participate in anti corruption movements?

2. "Change will come when the incentives to throw out a corrupt system become stronger than the incentives to retain such a system. The need of the hour is to have zero tolerance towards corruption." Discuss.

3. What is a False Claims Act? What are the main provisions of such Acts?

4. Compare and contrast financial audit and social audit. What role can social audit play in reducing irregularities in government programmes?

5. "Corruption arises not so much from human moral frailty as from inherent systemic weaknesses which create the opportunities for corruption." Examine.

6. Briefly explain how excessive economic controls which governments may impose create an environment that favours corruption. Give two examples.

7. How can information and communication technology (ICT) help in reducing corruption? Illustrate your answer with two examples.

8. A prominent view argued: "Introducing competition in providing public services can reduce corruption. Telecom sector deregulation is a good example." Is 2G scandal an argument against deregulation and introducing competition? What systemic failures led to 2-G scam?

9. What are the features of Coalgate as a corruption scandal?

10. What do you understand by discretionary decision making? Why is it considered undesirable? How can it be reduced?

11. Why is corruption in government contracts considered a serious problem? How can it be reduced? Mention two major examples of corruption in contracts.

12. What is meant by criminalization of politics? How is it connected with political corruption?

13. "Corruption is an inevitable concomitant of democratic electoral politics." Do you agree? Give reasons for your stand in the matter.

14. Write short notes on:
    (i)   Government funding of political parties
    (ii) Integrity pacts
    (iii) Positive silence sanctions or deemed approvals
    (iv) False Claims Act
    (v)   Accountability
    (vi) Simplification of procedures.