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PRIMER FOR A CORRUPTION FIGHTER

(WITH SOME FREE ADVICE FOR THE AAM ADMI PARTY)

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How the world of Delhi has changed in a week! The unbelievable success of the AamAadmi Party (AAP) is an exciting event for our democracy—and especially for Transparency International!—and a reason for all of us to rejoice and hope ...but also to worry. 'Rejoice and hope', because it's a slap in the face to our old corrupt political system and could represent the first green shoots of a new politics, bringing in the engagement finally of our new middle class. 'Worry' because we know very little about policies of the AAP. From what we know, I fear an illiberal statist worldview that does not believe in reforms, competition, and the market-- our worst fear is that they might take us back to the pre-1991 India. Even the tempting idea of zero corruption is illiberal and is the route to totalitarianism. Every democracy must learn to live with a bit of corruption.

PREVENTION IS BETTER THAN CURE

'Clear the swamps if you want to tackle malaria,' I told Arvind Kejriwal when he came to my house last year. He looked baffled. I explained that an anti-corruption agency like the Lokpal was needed medicine but you gave it only after the sickness appears.

'Prevention is better than cure', I said. To prevent corruption, you have to reform the institutions of governance, eradicate 'license raj', and stop the populist policies that create opportunities for corruption. So, good old fashioned reforms of the 1991 variety would do far more than sending the hounds of the Lokpal after every official who yields to temptation.'

Most of us approve of a Lokpal but why has the Hazare movement been silent over how to clear the swamp? Corruption originates in too much discretionary authority with officials and politicians and this breeds 'crony capitalism'. The reforms in 1991 took away some of that discretion but many sectors of the economy are still

unreformed. Thus, scams happen in the dark alleys of these unreformed sectors, such as land transactions, mining, and government purchases. So, one answer to corruption is to turn over economic decisions to impersonal market forces. If competition rather than officials decide what is produced, by whom, at what price, corruption will diminish.

Yes, the human DNA is imprinted with a natural propensity to favour family, friends, and fellow members of caste and community. This universal flaw reasserts itself in the absence of strong incentives in favour of impartiality. It triumphs particularly in a country like India where society had been historically strong and the state weak. Even though India is changing, family bonds remain strong, and fragmented loyalties invite a special type of corruption called nepotism, which we daily observe in India's political family firms.

CORRUPTION ORIGINATES IN TOO MUCH DISCRETION

We forget that corruption was much in the news in the 1960s. The home minister, Gulzarilal Nanda, announced in a press conference that eradicating corruption was his 'main occupation'. A reporter told Rajaji that the problem was that Indians were corrupt. Rajaji quickly retorted that corruption was less a matter of culture and more of economic incentives. Socialist controls sent out the wrong signals to human beings about how to behave. Yes, culture matters but it quickly changed if incentives change. In the 1960s corruption had grown to such a level that the government set up the Santhanam Committee for the Prevention of Corruption, which as we know first proposed the 'Lokpal', and for which btw Anna Hazare has once again gone on a fast this week.

Rajaji was the first to describe Nehru's socialist economy as a 'license, permit raj'. In those days imports were controlled through licensing and this resulted in smuggling; manufacturing was directed not to make what people wanted but what Planners wanted. This meant shortages and black-marketing. Equality was sought through high income taxes on the rich, and the tax rate rose to 97 per cent in the 1970s; the consequence was widespread tax evasion and black money. Inflation was sought to be brought down through price controls – as Kejriwal proposes to do in the power sector-- and the outcome of all these measures was corruption. The Santhanam Committee indicted the 'license raj', saying that more licenses meant more corruption. Over the years the government set up more committees for administrative reform but it never acted on them. To prevent day-to-day corruption, the committees suggested correctly that our bureaucracy had to have transparent decision making, reduce discretion,

shrink opportunities to manipulate public rules for private gain and penalize delays--the favoured tactic of a corrupt bureaucrat. The civil service needed to be transformed from a system based on seniority to one that rewarded good performance and punished poor outcomes. Side by side, of course, judicial delay had to be tackled, since there was no point catching crooks in high places if you could not quickly try and sentence them.

LET US BEGIN WITH ECONOMIC FREEDOM

License raj began to ebb finally after 1991 when tortuous, bribe-laden procedures were abolished or pruned for running a business. This included freedom from industrial licensing, import restrictions, permissions for technology, capital issues, foreign investment, and much else. Some said that these reforms helped only businessmen. In fact, they helped everyone. People no longer had to queue for years for a telephone, a scooter, or for cement and steel for building a house. They were no longer at the mercy of a government monopoly company for an airline, bus service, telephone, insurance, television, and more. Reforms ended the perennial scarcity of the days of the 'license raj'. Lower import duties ended the smuggling of gold, synthetics and consumer electronics. And lower tax rates reduced black money.

After twenty years of economic reforms, you'd have thought that corruption should have disappeared. As we well know, it is well and alive in 2013. The problem lies in the incompleteness of reform. Entrepreneurs still lack the freedom to operate in the unreformed areas. This is why economists relate corruption to the 'freedom to do business', another expression for a liberalized economy where individuals are not at the mercy of politicians and bureaucrats. This freedom is measured annually by the Heritage Foundation while the 'corruption index' is measured by Transparency International. In 2010, seven of the world's ten 'least corrupt' countries were also ranked amongst the top ten in 'business freedom'. Among them were New Zealand, Singapore, and the Scandinavian nations. The ten most corrupt countries on the average had a business freedom rank of 154. India's was 167. The Scandinavian countries, from which India had borrowed the concept of Lokpal had on the average a 'business freedom' rank of eight.

The worst affected by the lack of freedom and the 'license raj' is the small entrepreneur who does not have political influence. He faces on the average seventeen inspectors who have the power to close his factory unless he pays a bribe. The most notorious are those in Mr Chidambaram's control--the excise, sales, and the income tax departments. Even the poorest person in the informal economy, the rag picker, suffers

from the same lack of business freedom that makes him vulnerable to the depredations of the police and inspectors.

LIMITING AMBITION WILL ALSO HELP

Many liberal democracies have faced the problem of graft. None has eliminated it but the successful ones have brought it down to a manageable level. The lesson is to raise either capacity of the state or limit its ambition. Since capacity building in a poor, soft democracy will be slow, it is wiser to limit ambition at this stage and focus on the core functions of governance. Quick and strong punishment to the corrupt has been a proven deterrent in all societies and solving judicial delay will do more than any single step. So will administrative, police, and electoral reforms identified by innumerable commissions. Economic reforms are important as they reduce bureaucratic discretion and crony capitalism. Cash transfers to the poor are a better way to deliver benefits as they do not distort market signals, nor put pressure on capacity. Smart cards reduce corruption, as we have seen in the government's health scheme (RSBY), and their use for delivering other services such as food rations and NREGA payments will definitely reduce corruption. So will the use of the Internet in delivering birth certificates and passports and other services by diminishing the interface between the citizen and official.

Anna Hazare and ArvindKejriwal's answer to corruption is the Lokpal. It is a clear, specific objective, and this is its virtue. To be effective, the Lokpal should be lean and focus only on the big fish, leaving the smaller ones to other institutions like the Vigilance Commission. It ought to have the power to initiate a case without government permission; and its decisions ought to be binding. The Chief Vigilance Commissioner has failed because it has lacked these empowerments. Much depends on who becomes the Lokpal. The Election Commission was mediocre until the determined T.N. Seshan came along, and followed by the outstanding J.M. Lyngdoh. His selection must be insulated from the politics of democracy. More than probity, the Lokpal needs to be tough, determined, and courageous.

TWO TYPES OF CORRUPTION

There are two types of corruption--harassment and collusive. In collusive corruption the bribe taker and giver conspire—as in the 2G spectrum scam. Both must be severely punished. In harassment corruption, an official denies a citizen his rightful due—a license, ration card, a building certificate—unless he earns a bribe. It is the most common form of corruption and the bribe giver is the victim. In this unequal relationship, the citizen is more vulnerable as the official can actually close down his

enterprise. Hence, KaushikBasu, the former chief economic advisor, suggested giving immunity to the bribe giver from prosecution to encourage him to complain.

REFORM OF GOVERNANCE INSTITUTIONS IS CRUCIAL

The Lokpal has a greater chance of success if justice is speeded up simultaneously. The rich and influential, as we have observed, are able to drag out criminal and civil cases for decades. A much quoted study in the *Economic and Political Weekly* tracked almost 3000 cases against corrupt officials over 16 years in Karnataka. It concluded that the real problem was not the neutrality of the investigation agency (as Anna Hazare's team believed) but judicial delay. The answers have been highlighted by numerous commissions, and this not the place to get into details of judicial reform. Quick and honest enforcement of contracts will also make India a better place to do business. It is sobering to remember that India ranked 182 out of 183 countries in the World Bank/IFC Annual Doing Business report in 2011.

Corruption will shrink, as the Santhanam Committee suggested, if decision making in the bureaucracy is transparent, discretion is reduced, rent-seeking opportunities are cut, officers punished for deliberate delay, and punishment guaranteed to the guilty. This could be achieved if incentives changed from a seniority system--where everyone is promoted based on years of service--to rewarding good performance and punishing poor outcomes. This in turn needs a better assessment system for officers. Eight out of ten officers cannot be rated 'very good' or 'outstanding' in any service.

Similarly, the police force needs to be reformed along the lines recommended by police commissions. Officers need to be insulated from political pressure and to stop doing the dirty work of their political masters. Too many die in police custody, and forensic skills need to be upgraded rather than relying on third degree methods. Finally, electoral reform is critical. Fast tracking the trial of elected legislators will deter criminals from entering politics. A modest electoral funding law that reimburses candidates for each vote received will be an incentive for honest persons to enter politics while punishing the frivolous.

TECHNOLOGY CREATES TRANSPARENCY

Land is the biggest source of collusive corruption and the answer is to implement the second generation of economic reforms. It is not necessary to re-invent the wheel—we merely need to follow the best practices in the world related to land use, building certificates, equalizing circle and market rates, etc. Similarly, when awarding contracts

for natural monopolies--mining, oil and gas, telecom spectrum – the solution in most cases is transparent, electronic auctions. A similar approach could be taken with government procurement. The more things are out in the open, the less chances of bribery. The Right to Information Act, as we have seen, is making the system more transparent.

A government that cannot identify the poor wastes a lot in universal subsidies that end up in the wrong pockets. A poor person, with a secure on-line identity does not have to wait in an endless line in the sun, nor have to bribe an official who has monopoly on the paperwork. The harassment, especially of young widows, who try to get their pensions is a daily feature of life that few women complain about. A pilot project in Jharkhand has shown good results by linking the secure identity of a poor person with a bank account through the mobile phone with funds payable at any registered village store. It is far better than the government hoarding millions of tonnes of grain, part of which is annually eaten by rats.

Finally, fighting corruption means continuously building incentives to depersonalize relationships inside the state and creating loyalty to the larger national community. Strict enforcement of the law helps--the old lesson of *danda-niti*. But eventually the rule of law needs a change in 'habits of the heart'. Kejriwal is right when he focuses on the *gram sabhain* the village and *mohallasabha* in the city. When people govern themselves they begin to internalize the virtues needed to become good citizens.

THE AAM AADMI PARTY MUST BE LIBERAL

Now for some gratuitous advice for the AamAadmi Party: It will only get my vote if it is liberal. The space for an aspirational, secular, and liberal party is vacant. If the AAP could become such a party then its agenda must focus on good governance via the reforms of institutions and on the second generation of economic reforms. It must trust markets rather than officials for economic outcomes, thereby drastically reducing the discretionary authority of politicians and bureaucrats in microeconomic decision-making. This in turn will decrease the interface of citizens with the state and shrink the chances of collusive corruption. In this way the country would begin to move away from crony capitalism and towards rules-based capitalism. The mindset of the nation has shifted in the past two decades from a command economy run by the state to one based on competitive market. Its primary constituency, the middle class, is almost a third of the population and will be half the country in a decade. As the Anna Hazare movement has shown, it is impatient for good governance.

FINDING INDIA'S MORAL CORE

People in the end obey the law because they think it is fair and just and because they become morally habituated to it. Obeying the law then becomes a form of self-restraint and character. Therefore, the demand for governance reform must also emerge out of a reinvigorated Indian moral core. The notion of *dharma* imposed this moral core in pre-modern India. The task for India's 21st century politics is to recover constitutional morality.

Early in the freedom struggle, Mohandas Gandhi discovered that the liberal language of constitutional morality did not resonate with the masses, but the moral language of *dharma* did. So, like a consummate myth-maker, he resuscitated the universal ethic of *sadharana dharma*, not unlike the Buddhist emperor Ashoka in the third century BCE, who embarked on a programme to build new 'habits of the heart' based on *dhamma* (*dharma* in Pali). Gandhi may not have been able to end untouchability, but he breathed life into the freedom movement. In the same manner, our challenge is make the Constitution a moral mirror by transmitting its ideas to the young as part of a broad citizenship project until they also become "habits of the heart."

It may seem strange to want to invoke tradition, especially when that tradition has been responsible for unjust hierarchy and social injustice. But it is a question of how one reads the past. Nation builders and revolutionaries have always known that history is ever ready to be used in the service of the future. Gandhi was aware that *dharma* is a pliable concept. So, he deliberately side-stepped the hierarchical concept of *svadharma* and the social concept of duties specific to one's caste, and evoked instead the universal values of *sadharana dharma*. This *sadharana dharma* is no 'respector of persons', and is consistent with the ideal of 'blindfolded' justice conceived in our Constitution. *Dharma*, after all, has given coherence to people's lives for centuries, reduced uncertainty and provided the self-restraint needed for a successful polity. By appealing to tradition, we will break the present divide in India between the vast majority of the Indian people who are religious and lead traditional lives and modern secularists who dub religious people as superstitious, bigoted and communal.

Reforming institutions is never easy. But the task cannot be put off. I have compared the crisis-ridden Hastinapur in the Mahabharata with today's flailing Indian state. Just as we have a problem with our corrupt institutions of governance, the kingdom of the Bharatas had a problem with the self-destructive Kshatriya institutions of its time, and it had to wage a civil war at Kurukshetra to cleanse them. There are impatient voices in India today that are prepared to wage such a Kurukshetra-like war in order to bring accountability into public life. This was apparent in the clamour surrounding Anna Hazare's movement. There is thus urgency to the task, but it should

be not be addressed through mobson the street but through institutional reform. Anna Hazare's cautionary message is that if the political class is not upto enacting those reforms then it better be prepared for a bloody civil war.

Who will make this happen? My hope lies with the new young middle class, which has been the support base of the Anna Hazare movement and the AamAadmi Party's success. Today this class (plus those aspiring to get there) are about a third of India. In ten years they will be half. By then our politics will also change. What we saw last week was a preview of the coming attractions. The old style politician has been warned.

In closing let me summarize. Preventing corruption is better than a curing it. To prevent it, we need to reform our institutions of governance—the bureaucracy, the police and the judiciary. As regards policy, economic reforms are the best corruption fighter as they take away personal discretion from politicians and bureaucrats and give it to the impersonal market. We should also eschew populist, socialist policies as they distort the market turning it from white to a black.

The sole life that a human being can lose, they say, is the one he is living. While winning or losing depends mostly on one's private life, the state can make a difference—it can make that life more predictable and secure through rule-based governance. Politicians make promises but there is no point in promising the future: it has to happen today. This means that good persons must enter politics and transform the institutions that are crying out for change. Until then, the best one can do is to keep dreaming of that great spectacle—greater than the sea and the sky—of a government run by men and women of restraint acting on the basis of the rule of law while remaining accountable to the people.
