

## TRANSPARENCY INTERNATIONAL INDIA

### Second Annual Lecture\*

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### "The Supply and Demand of Corruption"

By

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I am grateful to Transparency International for giving me this opportunity to discuss an issue of primary importance for the future of our country. Although "corruption" has always been there in some form or other, and its intensity has varied from time to time, I believe that we have now reached a point where it poses a serious threat to the security, freedom and well-being of the ordinary citizen in our country and our cherished democratic values.

As is well-known, politics has now become the most cherished profession for persons with a criminal record. Well over 100 members in our House of the People, cutting across political parties, have well-established criminal antecedents. The same is true in State legislatures. Many of our elected leaders, with long-pending corruption cases in courts, also become members of the Union or State cabinets with enormous powers to allocate public resources and run public enterprises.

What is equally startling is that, as recently confirmed on tapes and reported in the press, corruption now cuts across all professions, corporates, media, public administration - from top echelons to the bottom of the pyramid - and constitutes a serious threat to internal law and order.

It is to the credit of Transparency International that it has raised the level of public awareness and concern about corruption in India as well as globally. Transparency International's Corruption Perception Index and Global Corruption Barometer provide information and ranking of countries, across the world, in terms of extent of corruption as well as changes in people's perception about corruption, i.e. whether in recent past, corruption is believed to have increased or decreased.

As is well known, in the latest perception index, India's score is 3.3 on a scale of 0 to 10 where zero is supposed to be totally corrupt and 10 is totally clean. What is even more disturbing is that, according to TI's corruption barometer, in the past 3 years, nearly 75% of those polled said that corruption in India had increased and only 10 percent thought that it had gone down.

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I am sure that none of this is news for this distinguished audience. Today, instead of concentration on pervasiveness of corruption in our country or its specific causes in different segments of our public and corporate life, I would like to talk primarily on two broad issues - one is the larger economic effects of corruption, and second is the "systemic" nature of supply and demand for corruption in India. As pointed out by a distinguished political scientist (Pratap Bhanu Mehta, *Indian Express*, January 7, 2011):

*"The current sense of institutional disorientation is pervasive, and infects a vast range of institutions: politics, judiciary, civil service, media, academia, corporates, armed forces, the professions. It is almost as if an entire ruling class and those who have recently joined its ranks have lost their sense of purpose, a sense of what their institutions are supposed to be about a sense of their identity and mission"*

It is not generally appreciated that adverse effects of high and rising corruption on a country's income, fiscal balance and investment is a "multiple" of the amount of actual illicit monetary benefit to the corrupt. An interesting finding of empirical research is that for every rupee of monetary gain to the corrupt, the aggregate loss to the society could be as high as three or four rupees. Let us call it the "corruption multiplier". Just as money supply in the economy is a multiple of actual money created by central bank (the so-called "money multiplier"), there is a "corruption multiplier" which occurs because of wrong choice of public projects, loss of tax revenues, low quality of goods and services by corrupt producers, and frequent breakdown of equipment (for example, in power plants).

The worst effect of the "corruption multiplier" is on total factor productivity and delays in completion of public projects, particularly infrastructure projects. As it is, government procedures for approval and financing of investment projects involve a large number of ministries and agencies, at the Centre and States, at different levels of administration. If there is a corruption at any stage of approval, then the "corruption multiplier" gathers momentum and total investment, because of delays, declines by a multiple of actual money transferred to the corrupt.

Another interesting finding of empirical research is that the adverse economic effects of corruption are more pronounced on small enterprises and growth of employment in the economy. Thus, a survey of 3000 enterprises across 20 transition economies, covering all regions, found that corruption and anti-competitive practices were perceived as the most difficult obstacles by start-up firms. For large

enterprises, corruption often increases profits as it allows them to enjoy monopoly rents and scale economies. For small enterprises, it raises costs and reduces profits because they have to make payments that do not contribute to productivity or output but are necessary for their survival.

Another adverse economic effect of corruption is that the poor are the worst affected, and as a result corruption further aggravates inequality in an unequal society. As is well-known, in order to enhance the scope for corruption, government expenditures are inflated and wasteful projects and programmes are taken up, including purchase of spurious drugs and unsafe equipment causing hazards to safety, life and longevity. While the better-off have access to private providers of essential services, the poor have to necessarily rely on public agencies.

This is not all. There is also strong empirical evidence that countries with high levels of corruption tend to have lower collection of tax revenues in relation to their national incomes. Corruption has a statistically significant negative correlation with receipts from personal income taxes since private negotiations with tax inspectors is a common practice in many developing countries, including India. It is estimated that a one point, that is .001 percent increase in corruption is associated with as much as a 0.6 per cent decline in receipts from individual income taxes over a period of time. Indirect tax collections, particularly revenue from customs duties and excise duties, are also highly sensitive to the degree of corruption.

In the past few months, concerns have been expressed at the highest levels of government as well as business leaders, editors and public intellectuals about what has been referred to as "governance deficit" and corruption or "ethical deficit". However, it is not widely realised that these two areas of rising public concern are intimately inter-connected. Corruption breeds mis-governance, for example, in respect of NREGA, PDS, food security for the poor and so on. Higher the level of corruption and diversion of funds from these poverty alleviation schemes, the greater the degree of mis-governance. And the other way round — governance deficit and lack of accountability breeds corruption.

Thus, taken as a whole, without doubt corruption is an important cause of rising disparity, persistence of high incidence of poverty, and enormous delays and low productivity of public investments in India.

Let me now turn to what needs to be done. There is no shortage of ideas on what should be done in the development literature, media editorials, speeches in Parliament, judicial pronouncements and civil society organizations. Some highly

welcome steps have also been taken in recent years to expose political and bureaucratic corruption. Among these are: the passage of Right to Information Act, filing of PILs by public interest organizations, judicial activism and wide media exposure of political scams - such as, 2G, and illicit land and mining allocations by politicians. Some ministers, including a central Minister and a Chief Minister, have also lost office recently because of their direct involvement in such scams. Some wealthy businessmen and their associates who benefited from such scams were also arrested.

Another important step being taken to reduce corruption in payment of taxes is the introduction of electronic filing of income taxes. Most states have also established "Lok Ayuktas" with autonomous powers of investigation and prosecution. To reduce political corruption, there is a growing consensus in favour of state funding of political parties and conferring further powers on Election Commission to disqualify persons with serious pending criminal cases. The present government, on the advice of National Advisory Council headed by Congress President, is also reported to be considering an agenda of reforms to reduce corruption, such as, eliminating the discretionary powers of ministers in some areas.

All these steps to reduce the demand and supply of corruption are welcome. However, I believe that these are by no means sufficient if we wish to reduce corruption at the source, rather than try and deal with it once it has occurred. It needs to be recognized that, in the light of some relatively recent developments, there has been a fundamental change in the shape and working of our political and administrative system. These changes were not visualized at the time of the framing of our Constitution, and have substantially reduced the responsibility and accountability of multi-party governments in power for what they do, or for that matter, what they do not do.

A fundamental "systemic" change, which dominates the working of India's politics today - unlike the first four decades after Independence - is the emergence of coalitions as a "regular" form of government since 1989. India has had as many as 9 governments during past 21 years - with an average life of less than 2½ years. Of these, 2 multi-party coalitions survived their 5-year terms. Excluding these two full-term coalition governments, the average term of 7 governments so far with enormous powers to allocate resources, control public enterprises and decide inter-state allocation of investments - is less than 1½ years.

It does not take a political genius to recognize that if he or she is in politics and gets elected to Parliament or a State Legislature, his or her life expectancy in office is likely to be "short" and entirely dependent on the party leader - unless, of course, he or she happens to be that leader, or a direct descendent of that leader.

The crucial point here is that at the time of formation of a multi-party coalition government, general expectation of small and regional parties is that enormous powers that their nominees, as ministers, enjoy may not last very long - or that it may change if a more powerful leader of one or two large parties in coalition so decides.

Under the present Constitutional provisions, as a consequence of amendments carried out in 1985 and again in 2003 to prevent defections, now there is also a built-in incentive for fragmentation of political parties at the time of election. This is because smaller a party, the greater the power of an individual legislator to defect to another party in search of political power. Thus, for example, a member elected from a large national party has very little discretion to defect without the support of a substantial number of other members, who also wish to defect. However, if the same person is a member of a small party of 5 or 10 members, a consensus to defect among all of them or only 3 or 4 of them, and switch from one coalition to another, is easier to achieve. The same is true of so-called "independent" members, who are supported by some political parties during elections. In a situation where multi-party coalitions are the norm, all regional or caste leaders naturally have a much greater incentive to form their own separate parties.

In addition to fragmentation of parties and short life expectancy of coalition government at birth, in recent years, there has also been a subtle change in the role of Parliament, and the accountability of executive to Parliament. Parliament now has multiple centers of power (in addition to the party leading the government, and the party leading the opposition). An important consequence of the emergence of multiple Centers of power is that what the Parliament does or does not do depends on 'behind the scene' agreements among different sets of party leaders within and outside government. As long as the government has the backing of sufficient number of leaders, it is supreme and it can get Parliament to do what it wishes. As Eric Hobsbawn, the noted historian and political analyst, has pointed out in another context, when important national decisions are taken among small groups of people in private in a democracy, the position is not very different from the way they would have been taken in non-democratic countries.

A related development is the politicization of India's bureaucracy, which has gathered further momentum in recent years. In theory, under Indian system of executive responsibility, there is supposed to be a clear division of roles between the permanent civil service and the political leadership. Government's policy priorities and its work program are set by politicians. However, bureaucracy is supposed to ensure that implementation of the approved program is done according to the laws and procedures in force, without fear or favor, for the benefit of all the people regardless of their political affiliations.

Over the years, slowly but surely, the role of the bureaucracy has been seriously compromised. Any party which comes to power and joins a multi-party coalition, is inclined to appoint favored bureaucrats in sensitive positions who, in turn, are expected to carry out the wishes of its party leaders, irrespective of their merits or legality.

As emphasized by several former cabinet secretaries and other high level officials in their memoirs, most of the administrative powers which were earlier in the hands of the civil servants have now been taken over by political masters at the ministerial level who have no direct or indirect experience of administration. As politics has become more combative and personalized, and coalition governments have become less secure about their tenure in office, transfers of civil servants have also become very frequent. Some years ago in U.P., for example, where two parties resolved to have a 6-monthly tenure in government, there were as many as 1000 transfers within a year amongst members of the IAS and the IPS. First head of government transferred senior officers at an average rate of 7 per day. The second head of government, who took office after the expiry of 6-month period, decided to beat this record and transferred officials at the rate of 16 per day!

As a result of frequent transfers, administration has naturally become weak. What is even worse is that civil servants, instead of being independent of political leaders or parties in power, have now become sub-servient to them. As a result, corruption has also become rampant, both to avoid transfers as well as to secure remunerative postings.

In this situation, if the prevailing incentives for corruption have to be reduced, we have to revisit some of the original assumptions about our political system, particularly the power that we confer on whoever happens to be a minister at a point

of time, and the role of permanent bureaucracy *vis-a-vis* that of ministers who have short life-expectancy of staying in power.

What can and should be done? Let me not take too much of your time, and highlight a few basic reforms, which are urgently required based on my own personal experience in administration - and later as a nominated member of Parliament. Some of these have not received as much media or professional attention as they perhaps deserve.

First and foremost, highest priority needs to be given to reforms which reduce the "economic incentives" for politics as a profession of choice by persons with criminal antecedents. In this respect, some reforms which need to be introduced urgently are:

- ❖ The anti-defection law should be made applicable to small parties and independent members who choose to join the government. In other words, those who join the government cannot defect (as has happened in several states of India in past few years) without having to seek re-election. At present, as mentioned above, the anti-defection law applies only to members of a particular political party which has had the unintended consequences of providing an incentive for formation of small parties, and reducing the personal autonomy of elected legislators belonging to a large party.
- ❖ The pre-2003 procedure for elections to Rajya Sabha should be restored. By an Amendment in 2003 to the Representation of People's Act, the procedure for elections to Rajya Sabha was made dependent on the will of a party leader who may not even be a resident of a particular state which is electing its members to Rajya Sabha. Secret voting procedures have also been abandoned, and all legislators in all states have to vote as desired by leaders of their parties - whoever and wherever they may be located. Thus, a legislator, say in the assembly of a drought-prone state may have to vote in favour of someone unknown from another state with no particular interest in improving irrigation or water supply. After the above amendment, the importance of money in nominations was also widely reported in the media. For example, the following headlines from 3 national newspapers speak for themselves:
  - "Road to Rajya Sabha: Money can buy you a seat", TOI.
  - "Money bags on prowl in R.S. Polls", E.T.
  - "Why Office is Profit, Profit is Office", I.E.

The representation of the wealthy in so-called Council of States has increased substantially since the above amendments. If so-called Council of States is to perform its Constitutional role, the domicile and secret voting rules must be restored as early as feasible.

- ❖ Another political priority is to provide highest priority for hearing of cases of elected leaders with criminal antecedents. Their cases should be mandatorily decided within six months after their election. Such a procedure would effectively "reverse" the incentive for criminals to choose politics in order to delay investigation of their cases and possible conviction. In fact, they may choose not to contest elections so that they are in a position to delay hearings through normal legal procedures!

In addition to above measures to reduce attractiveness of politics as a career of choice by persons with criminal antecedents, another set of measures need to be introduced to reduce the "discretion" available to politicians in the allocation of public resources and control of public enterprises. As is well known, political corruption in the allocation of land and minerals, irrespective of parties in power, in States is now common - and has lately been highlighted by land scams in Maharashtra and illegal mining in Karnataka.

Similarly, unlike other democracies, in addition to major industries like oil, gas and steel, public sector enterprises in India are dominant in the financial field (particularly banking and insurance) and transport (particularly railways, ports and airports). Award of contracts as well as operational priorities, in addition to appointments, are subject to ministerial discretion without accountability.

Just last week, all of us would have seen a headline in a leading newspaper to the effect that the former Telecom Minister made a huge amount of Rs. 3,000 crores in bribes during his short term of office (*Times of India*, February 11, 2011). This is obviously highly scandalous. But let us ask ourselves - how is it that he had the opportunity and such enormous discretionary powers to accept such massive bribes from corrupt corporates? Who gave him this opportunity? Was it the intention of our Constitution to confer such powers on an elected representative of the people?

A wholesale change is needed to remove allocation of public resources and control of public enterprises from the ministerial domain. Cabinet should, of course, continue to be fully empowered to decide on "policies" relating to allocations of resources, and priorities of public enterprises. If UPSC can appoint civil servants through a competitive and open system for life-time employment, there is no reason why a similar autonomous agency, like Public Sector Enterprises Board (PESB) can not be given full powers of supervision over the management of public enterprise with accountability to concerned ministries.

In order to reduce the demand for corruption by citizens and small enterprises, at the "retail" level as it were, to get approvals or permits from government agencies to carry on with the ordinary business of life, there is an urgent need to simplify administrative procedures, eliminate discretion in the decision-making process and drastically reduce the number of ministries and agencies. At present, as I mentioned, 10 to 12 ministries are involved in policy-making in different areas. Similarly, 30 to 40 different clearances may be required for, say, setting up even a modest-sized industrial factory. The problem, of course, is that if procedures are simplified, then hundreds of ministerial departments and their subsidiary agencies at the centre and states may not have much to do. There is no simple answer to this problem since pursuit of ministerial offices is the driving force of time-consuming and costly electoral politics in India.

One possible solution is to continue with the number of ministries and agencies that are already in place, but re-set their direct roles. They can be made responsible for ensuring availability of public goods (such as, roads and water), essential services (such as, health and education), and poverty alleviation schemes (such as, employment guarantee). There are more than a hundred such schemes in high priority areas of public interest. These could provide substantial scope for improved monitoring and implementation of programmes on the ground. In addition, of course, there is need for an expanded role of government in respect of internal security, law and order, management of urban and rural infrastructure and so on. There is no scarcity of work to improve governance and delivery of services, provided the orientation of government activity can be shifted from "ruling" the people from top to serving them at the bottom of the pyramid.

Finally, whether we like it or not, as citizens, we need an efficient civil service, not only to maintain law and order but also to provide essential public services to enable citizens to carry on with the ordinary business of life. In order to improve the morale and performance of civil services, it is essential to provide for "separation of powers" between ministers and civil servants in so far as postings, transfers, promotions and other similar administrative matters are concerned.

We should revert to a rule-based system of administration, which circumscribes the powers of politicians and allows civil service to regulate itself. The greater empowerment of civil service should go hand in hand with greater accountability of civil servants for their performance and ethical conduct. While granting greater authority to the civil service on administrative matters, two statutory

provisions in particular, namely Article 311 of the Constitution, which provides comprehensive constitutional protection to civil servants, and the Official Secrets Act of 1923 deserve to be withdrawn.

These are some of the urgently required reforms to reduce the supply and demand of corruption in India. In view of the current public outrage and dismay about the working of our political system, let us at least begin with some basic reforms which are consistent with the original Constitutional design of our much-applauded and valued system of democratic governance and electoral sovereignty.

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