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Role Of Civil Society For Combating Corruption In India

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Abstract:

The work against the corruption is emerging as a key development issue in India & too prevalent in many parts of the world, and likely to affect all the peoples which is a violation of human rights. Thus, identifying key institutional reforms in India, and mobilizing support for such reforms, needs to be fully integrated into the participatory process from very early on. Such early convergence is likely to promote a better balance between prevention and enforcement measures in addressing corruption. Until recently, the pendulum was firmly in the "enforcement" corner. The gradual swing towards middle ground has taken place due to recognition of the limitations of ex post legalistic enforcement measures, since rule of law institutions themselves are currently part of the corruption problem in India.

Key words: Corruption, human rights, civil society, India.

1.Introduction

In recent years, a key development issue emerged in India is Fighting against corruption. More and more policymakers, businesses, and civil society organizations[1], have begun to confront the issue openly. A number of factors explain this growing emphasis on fighting corruption. Expansion and consolidation of democracy at the grassroots level has enabled citizens to use the vote and new-found civil liberties to confront corruption[2], prompting leaders and opposition figures to show a stronger anti-corruption commitment. Internationally, since the end of the Cold War, donor governments have focused less on ideological grounds for foreign assistance and concentrated more on trade and development, both of which are undermined by corruption. Countries with high levels of corruption, like India, have found[3] themselves less able to attract investment and aid in a competitive global market. At the same time, business within the country has faced ever stiffer competition with the gobalization of trade and capital markets, and has become less willing to tolerate the expense and risk associated with corruption.

2. Literature Review

The body of theoretical and empirical research that objectively addresses the problem of corruption has grown considerably in recent years (Elliot 1997, Coolidge and Rose-Ackerman 1997, Gandhi 1998, Gill 1998, Girling 1997, HDC 1999, Kaufmann and Sachs 1998, Mauro 1995, Paul and Guhan 1997, Shleifer and Vishnay 1998, Stapenhurst and Kpundeh 1998, Vittal 1999, World Bank 1997). A preliminary analysis of the literature shows that corruption in India and elsewhere is recognized as a complex phenomenon, as the consequence of more deep seated problems of policy distortion, institutional incentives and governance.

3.Basic Hypothesis

Preliminary examination of data from various sources suggests the formulation of a clear hypothesis concerning the role of civil society in combating [4] corruption in India. Viewed in this perspective, anti-corruption strategies are not simply policies that can be planned in advance and isolation, but often a set of subtler insights that can be developed only in conjunction with citizen participation. Combating corruption is, therefore, not just a matter of making laws and creating institutions, but rather it is deeply rooted in the activities of the civil society itself.

4. Methodology

In recent years significant improvements have been made in the measurement of corruption, in the construction of composite corruption indices, and in the design and implementation of surveys. The Economic Development[5] Institute at the World Bank, in collaboration with the Transparency International and local NGOs, has developed a methodological approach integrating within one empirical framework the various components identified so far for understanding and combating corruption. This overall empirical approach links worldwide database and analysis with determinants of corruption, in-depth country analysis, and country action program (Kaufmann, Pradhan, and Ryterman 1998). In this research paper, the World Bank framework is used to understand and explain the role of civil society in combating corruption in India, and consider recent initiatives for an effective action plan in this regard.

- Anti-corruption Analysis and Action(Adapted from: Kaufman, Pradhan, and Ryterman (1998) [6]:

- -Database and Analysis: *Worldwide and Regional data analysis, *Prevalence of corruption, *Consequences of corruption, *Country governance factors

- -Determinants of Corruption : *Political patronage , *Administrative labyrinth, *Lack of punishment, *Social environment

- -Country Analysis : *Political Will , *Civil society understanding, *Focus groups, *Task forces

- -Action Programme: *Institutional and priorities , *Political will and government role, *Civil society *Role of inter national community

5.Causes Of Corruption

There is little doubt that corruption in present-day India pervades all levels and all services, not even sparing the Indian Administrative Service and Judicial Service. The bureaucracy of the British India was considered to be largely untainted with corruption. The mid-1960s is considered to be the great divide in the history of public administration in India. It marked the fading away of the Gandhian and Nehruvian era of principled politics and the emergence of new politics the keynote of which was amorality. The scams and scandals of the nineties revealed that among the persons accused of corruption were former Prime Ministers, former Chief Ministers, and even former Governors. India's experience with corruption has shown that laws, rules, regulations, procedures and methods of transaction of government business, however sound and excellent cannot by themselves ensure effective and transparent administration if the political and administrative leadership entrusted with their enforcement fails to do so and abuses its powers for personal gain.[7]

5.1.Political Patronage

The biggest cause of corruption in today's India is undoubtedly the political leadership at the helm of affairs in the country. The post-independence political leadership has risen from the grassroots level in the form of regional, caste, linguistic and other protest movements. The A.D. Gorwala Report was one of the earliest official documents that laid bare the problem of corruption in India. World War II was an expression of violence and also of greed. Gorwala added to that the failure of the national movement to leave behind a spiritual residue among the people (Vishwanathan and Sethi 1997).

The Gorwala Report was particularly harsh on the role of the political leadership in setting examples before the public. "Enquiries into allegations have [8] been made by senior all-India leaders of the principle party. There should be no hushing-up or appearance of hushing-up for personal or political reasons." (India, 1951).

For the Railway Corruption Enquiry Committee, chaired by J.B. Kriplani, corruption was a failure of citizen ship. Whether it was the bribe, ticket less travel or theft, all these were acts which undermined the state. Politicians and senior bureaucrats were among those who claimed exemption from paying for travel on account of their status. The report therefore went on to insist that "apart from administrative reforms, and punitive measures, there is a great need for higher officials to play the leaders in a reform movement." (India, 1955). However, by condoning high-visibility cases of corruption and shielding the guilty, Nehru legitimized graft in high places, and [9] this undermined the rule of law and the moral basis of the polity (Noorani 1973). There are a few failings for which India has paid so heavy a price as his tolerance of corruption among his colleagues and party men. (Gill, 1998).

The role of political leadership in aiding and abetting spread of corruption in India was most clearly brought out by the Shah Commission of Enquiry constituted to look into the excesses committed during the period of Emergency (1975-77). Justice Shah reserved his most damning observations for the role that Sanjay Gandhi, son of Indira Gandhi, played subverting rule of law in the country.

Here was a case of an individual wielding unlimited powers in a dictatorial powers without even the slightest right to it. If this country is to be rendered safe for future generations the people owe it to themselves to ensure that an irresponsible and unconstitutional centre of power like the one which revolved[10] around Shri Sanjay Gandhi during the Emergency is not allowed to ever come up again in any form or shape or under any guise." (India, 1978).

The nexus between corrupt politicians and corrupt bureaucrats has been clearly proved in recent years by scams like the Animal Husbandry (fodder) scam in Bihar (in which the former Chief Minister, some of his ministers, legislators of the ruling and

opposition parties and several senior bureaucrats were charge sheeted by the C.B.I.), Coal scam in Tamil Nadu (involving the then C.M. Ms. Jayalalitha), Urea scam (involving the son and a relative of the former Prime Minister Narasimha Rao), Telecom scam (involving the Union Telecom minister Sukh ram) etc. Since the corruption flows down from the top it is not easy to stop it or limit it, and it has a devastating effect on the administration and the society in general.

5.2 Administrative Labyrinth

Cumbersome and dilatory administrative procedures and practices are another major cause of corruption in India. The organization and functions of the police are governed by the Indian Police Act of 1861. The Indian Evidence Act came into force in 1872. The Indian Telegraph Act, which regulates the control of air-waves and licensing of broadcasting facilities, was passed in 1855-even before the invention of the wireless.[11] The archaic legal system is not only least suited to the promotion of a democratic, egalitarian, welfare state, it fosters an outlook which is subversive to social equity. The focal point of colonial justice was the individual and the protection of individual property rights whereas the emphasis of a welfare state is on the rights of the society and social justice.

5.3.Lack Of Punishment

A contributory factor to the growth of corruption in India is that the cases relating to corruption are often handled in a casual and clumsy manner. Those in hierarchy vested with disciplinary powers shirk duty and show unwillingness to use their powers against corrupt practices. The result is that the corrupt are rarely caught and even if caught are let off with minor or no penalties. The government officials[12] entrusted with the responsibility of dealing with corruption do it in a most inefficient and lethargic manner and this suits the political leadership which patronises corruption.

The judicial system is so expensive, dilatory, and inefficient that it takes years and years for corruption cases to be decided. The infamous Harshad Mehta case of organised corruption in the stock exchanges of India, in which small investors lost thousands of crores of rupees, has been in the courts for almost a decade now and as yet there is no indication of its nearing any decision. There are three crore cases pending in the Indian courts and average time taken for disposal of cases is from 10-20 years (Vittal 1999). Justice delayed is justice denied in most cases of corruption.

5.4.Social Environment

Public administration is a sub-system of the political system which itself is a part of the larger whole called the social system. Administration cannot be plucked out from the tissue of culture in which it is embedded as a member of the wide societal system. A bureaucrat [13] reflects the spirit and ethos of that society, and his actions are bound be the manifestation of his cultural moorings. In present day India, corruption has found an acceptance in the social psyche and behaviour. It is no surprise therefore that at times the corrupt political leaders walk majestically to the court and acknowledge their supporters greetings as if they were to receive award for public service.[14]

6. Consequences Of Corruption

In the final analysis, corruption is as much a moral as a development issue. It can distort entire decision- making processes on investment projects and other commercial transactions, and the very social and political fabric of societies. The Supreme Court of India in a recent judgement gave its comments on the far reaching effects of corruption, and these comments deserve to be mentioned in some detail. Corruption is opposed to democracy and social order, being not only anti-people, but also aimed and targeted at them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence shaking of the socio-economic

political system in an otherwise healthy, wealthy, effective and vibrating society" (AIR 2000, SC 870).

6.1 Economic Development

Some fairly robust statistical evidence has now been furnished showing that higher corruption is associated with (i) higher (and more costly) public investment; (ii) lower government revenues; (iii) lower expenditures on [15] operations and maintenance; and (iv) ensuing lower quality of public infrastructure. The evidence also shows that corruption increases public investment, by making it more expensive, while reducing its productivity.

A recent study by the Peruvian economist Paolo Mauro (1995 and 1998) found that a corrupt country is likely to face aggregate investment levels of approximately 5 percentage points less, than a relatively uncorrupt country. The evidence from India is particularly stark. If corruption levels in India were reduced to that in the Scandinavian countries, investments rates could increase annually by some 12 percent and the GDP growth rate by almost 1.5 percent each year (Gandhi 1997). A former Chairman of the Delhi[16] Electricity Board (DVB) was suspended and charged with amassing assets worth over 14 crore rupees, which is almost a hundred times more than his known sources of income. Such massive corruption is certainly one of the main reasons for perennial power shortages and frequent breakdowns in the capital. Corruption also reduces the government's resources and hence its capacity for investment, since tax revenues are depleted by tax evasion (Jain 1998, Shahid 1991). Whole industries[17] today depend on black money. The film industry, a substantial part of the construction industry and a large number of small industries are run on the basis of black money" (Vittal 1999).

6.2.Social Welfare

The damaging effects of corruption on investment and economic growth are widely recognised. But corruption also has adverse effects on human development. Allocating government funds to a few large defense contracts or mega-projects may seem more attractive to corrupt bureaucrats and politicians than spending the same money to build numerous rural health clinics (Bardhan 1997). Similarly, there may be a temptation to[18] choose more complex technology (where detecting improper valuation or overinvoicing is more difficult) than simpler, and more appropriate technology.

6.3.Political System

Politically, corruption increases injustice and disregard for rule of law. Basic human rights and freedoms come under threat, as key judicial decisions are based on the extent of corrupt bribes given to court officials rather than on the innocence or guilt of the parties concerned. Police investigations and arrests may be based on political victimisation or personal vendettas rather than on solid legal grounds. Commenting on the socio-political consequences of corruption the Supreme Court of India observed in the judgement cited above that corruptionin a civilised society was a disease like cancer. If not detected in time it was sure to turn the polity malignant leading to "disastrous consequences". The apex court said a socio-political system exposed to such a dreaded communicable disease was likely to crumble under its own weight.

7.Combating Corruption

Looking at the number of agencies created to tackle corruption, it is apparent that the government has been keen to eradicate this malady. Even before Independence, the colonial rulers had established the Delhi Special Police Establishment (DSPE) to control corruption which surged during the Second World War. The Prevention of

Corruption Act was passed in 1947 (Ramakrishna 1997), and an Administrative Vigilance Division (AVD) created in the home [19] ministry in 1955. The important measure during the early decades was the creation of the Central Bureau of Investigation (CBI) in 1963, which incorporated DSPE as the Investigation and Anti-Corruption Division (Gill 1998).

7.1 Political Commitment

This elaborate and multi-layered apparatus to control corruption could hardly make a dent on the situation because of lack of political commitment on the part of political leadership in the states and at the center. It is more than clear all these institutional arrangements to combat corruption can be useful only if correctives come from the political class which is the final legislative and executive authority in a parliamentary democracy. The case of Bihar during the past decade shows that all anti-corruption instruments and strategies come to naught against a political leadership which[20] has a vested interest in continuing corruption. Similarly, the spate of criminal cases in which a former Chief Minister of Tamilnadu, Jayalalitha, was herself involved shows that during her tenure political and administrative corruption could not have been checked effectively primarily because of the political patronage she had given to corrupt practices.

7.2.Administrative Accountability

Another essential component of anti-corruption strategy is the strict enforcement of the principle of accountability at all levels. In India the government performs vast functions over a wide range of areas of public concern. The apex court and several high courts have upheld cases against political and administrative functionaries at the highest levels. The cases involving former chief ministers of Tamilnadu and Bihar are[21] illustrative of judicial activism that has come to the rescue of rule of law against the custodians of law themselves.

7.3.Procedural Simplification

To reduce or control corruption it is necessary to eliminate delays. For that it is essential that office procedures should be simplified and levels of hierarchy reduced. Instead of the present system in which official files take rounds of several offices before a decision is taken, new pattern of decision-making, which is transparent and simple, needs to be evolved. This requires reorganisation of [22] government departments so as to reduce from nine to four the levels through which a case is processed today (Gill 1998). Latest management techniques and methods need to be incorporated into the functioning of all public services and public sector projects so that their efficiency and productivity keeps up with their social obligations.

7.4.Civil Society Participation

Civil society is considered as the realm of association between the household and the state. Typically this includes professional organisations as well as other formal and informal non-profit associations. The civil society addresses the will of the state to operate in an accountable, transparent and responsive manner. [23] Civil society organisations have a key role to play in combating corruption. In fact, the task of ensuring sustained political commitment, administrative accountability, and procedural simplification can be achieved more quickly if vigilant and active civil society organisations take up the responsibility of interacting with the government organisations. The Report Card methodology developed by the Public Affairs Center in Bangalore is an innovative instrument to track down and expose corruption in public services (Guhan and Paul 1997).

Similarly, the Common Cause in Delhi has done considerable work in the area of [24] public interest litigation which has served the purpose of dragging corrupt officials to the courts. The Government of India too has now become aware of the need to integrate public policies with public participation. At a Conference of Chief Ministers of Indian States in May 1997, the Department of Administrative Reforms and Public Services

evolved an "Action Plan on Effective and Responsive Administration", based on the responses and reactions from officials, experts, voluntary agencies, citizen's groups, media, etc. Among the various steps initiated in this respect, a core group was formed for the formulation and [25] monitoring of Citizen's Charter by identified Ministries with substantial public interface (Kashyap 1997).

The citizen involvement in combating corruption is the launching of Satyagrah (non-violent protest) by S.D. Sharma, an octogenarian freedom fighter and Vice-Chairman of the Transparency International-India, against political corruption and for honest and efficient governance. Established in 1997, the Transparency International-India has been playing a significant role in fighting corruption through Gandhian methods of non [26] violent mass mobilization. A participatory process involving citizens in the formulation and monitoring of anti-corruption strategies is thus taking roots in India. As more and more civil society organisations become involved in this process and take steps to both formulate and implement anti-corruption strategies it can be expected that in the coming years efforts to combat corruption should yield positive results.

8. Conclusion

There is a much better grasp today of the extent to which corruption is a symptom of fundamental institutional weaknesses. Instead of tackling such a symptom with narrow intervention designed to "eliminate" it, increasingly it is understood that the approach ought to address a broad set of fundamental institutional determinants. However, the challenge of integrating this understanding with participatory process has barely begun. The implementation of institutional reforms can benefit significantly from the participatory process that is being developed for anti-corruption activities. Equally important, any participatory process, however sophisticated, ought to lead to concrete results beyond enhanced participation and heightened awareness.[27] The gradual swing towards middle ground has taken place due to recognition of the limitations of ex post

legalistic enforcement measures, since rule of law institutions themselves are currently part of the corruption problem in India.[28]

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