

***Non Distance Learning Module***

***On***

***Combating Corruption***

***By***

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## ***Training Module on Combating Corruption - Non DLM***

### ***INTRODUCTION***

This module on Combating Corruption has been developed by the Training Division, Deptt. of Personnel & Training, Govt. of India in collaboration with the Institute of Secretariat Training & Management. The module has been developed under the aegis of UNDP towards achievement of its mission to alleviate poverty and achieve a social and people-centered development.

### ***CONTEXT***

On 14 August 2002, India would be celebrating the 55th anniversary of Independence. More than half a century has passed since India was liberated and was able to do what it chose to. Today it is the world's largest democracy and has crossed the one billion-population mark. India has now come a long way. India has the largest written constitution and with a Supreme Court to force strict enforcement of the constitutional safeguards provided for the freedom of individuals. The country has made remarkable progress in many fields. Now it has one of the largest numbers of top class specialists, scientist, engineers, software-experts managers, lawyers etc. We can boast of a vibrant press, vast industrial base and infrastructure and a capability of manufacturing almost every item from a needle to huge ships and aircrafts indigenously. India has undergone a green and a white revolution. India is now self sufficient in respect of food items. We also have very well established systems of rural and urban polity, administration and judiciary. With all this and through half of the century India should have become by now very well administered and reasonably prosperous country. There should have been a reasonably high standard of living among the rural masses. But it is apparent that this is not yet the case. It is most disheartening to learn that a large proportion of the population in India is still below the poverty line. According to the National Human Development Report an overall 27.09% of people are below the poverty line. However in States like Orissa and Bihar and poverty ratio of 47 and 43% respectively. Many of these are still denied the basic amenities of clean drinking water and basic sanitation. There are also indicators of loss in traditional values in families as well as society. The truth is that even after 55 years of independence, India is beset with numerous critical problems, which may have attributed to the present situation of under achievement in India. The most glaring, alarming and lethal of these is the pervasive corruption in the polity, in administration, in society and in business. This module focuses mainly on the problem of corruption and attempts to discuss why the country is gripped with pervasive corruption. It attempts to emphasize the damage caused already and warns of the dangers the country might face if we do not. The module is presented with a suggestion that corruption can be checked and combated to a

***“The war against Corruption is the Mother of all Wars.”***

great extent. Corruption is eating into the vitals of the country – it is the common man who is suffering and facing difficulties because of petty corrupt practices.

“The ultimate tragedy is not the brutality of bad people but the silence of good people”...said Martin Luther King, the great American Civil Rights Leader.

In this era of increasing violence and brutality all around, diminishing concern for human life and the increasing gap between the haves and have-nots, make the above statement more relevant than ever before. Corruption is one of the aspects that is responsible for the predicament of the society that we live in today. In this context a question arises as to whether corruption is the creation of modern civilization and way of life or did it exist from time immemorial? This module has attempted to delve into the brief history of corruption too

This question is very difficult to answer! Studies have shown that there is no reference to the existence of the corruption or bribery in the vedic texts nor does the code of Manu i.e. Manu Samriti mention bribery or corruption as a crime. However, a number of stories about corrupt practices that were followed in the society in the Sixth century B.C. find a place in the Buddhist Jatakas.

It is an undeniable fact that bribery of officials has been in existence for centuries. If one goes back into history, one can find that there was not major support for corruption when administration was run in the form of very small groups of people co-existing together. An example of this was the small City States in ancient Greece where there were no political parties or groupings. But as the City States enlarged their activities in the areas of economic and political spheres, corruption took shape in the form of bribery etc. Corruption was also the result of accumulation of riches as a consequence of political victories of the kings and emperors, and the consequent spoils of the war. It is said that during the period of Roman Emperors corruption in the form of bribery was rampant in all walks of life including election, legislature and judicial forum. More often than not, official in the hierarchy when they apprehended revolt, kept the soldiers in good humour with rewards and the people at large with ‘bread’ and ‘circuses’. Coming back to the Indian context, as complexities of administration increased, the administration found that controlling different sectors of public life became very difficult. As a result of this corruption became manifest in all walks of life. During the time of a highly organized Mauryan empire, Kautilya in his Arthashastra had devoted a whole chapter enumerating directions for detection and punishment of misappropriation of money. It is very interesting to note that the treatise of Kautilya lists some forty types of embezzlement.

Similarly, fines up to ten times the amount involved were prescribed for lending Govt.

***“On this earth there is enough for everyone’s need but not for their greed.”***  
**M.K.GANDHI**

money for private purposes, indulging trade/commerce with public money, forgery and falsification of Govt. accounts, misuse of Govt. property and a variety of the other practices. Without further elaborating the existence of corruption during various times, suffice it to say that this is one bane of the society, which has been in existence from time immemorial and has acquired gargantuan proportions in the modern society.

In a modern society more so in a democratic set up, the reputation and integrity of public servant or Govt. Servant is the reflection of the Govt. itself. Therefore, corrupt practices by the civil servants or Govt. employees would not only reflect on the reputation and efficiency of the Govt. but also affect the common man for no fault of his.

The training module attempts to enable the middle level Govt. officers to define the various facets of corruption in public life, the areas and levels of corruption, attributable reasons and consequence of corruption in the life of the common man and last but not the least the need for the public servant to stand up and be counted in the fight against corruption and corrupt practices. In this process an attempt has been made to list out certain possible ways in which this can be done.

## ***AIM OF THE MODULE***

This three-day training module aims to impart knowledge of what are corruption and the various facets of corruption in public life in the minds of the public at large. The module also aims to inculcate in the middle level (Group ‘A’) officers of the Government (Central as well as States) the skills for combating corruption in public life and create an awareness about ways and means by which corruption in Govt. can be combated.

## ***TARGET GROUP***

The middle level Group ‘A’ officers can generally be broadly classified as the cutting-edge employees who influence the decision making process in the Government. Hence such Group ‘A’ employees of the Central as well as State Governments would be the target group for the module. The numbers to be trained and the period during which training is to be imparted is best left to the users who in this case would be the Central

and State Governments and various Organizations under them. Hence no attempt is being made to make a guess as far as the numbers are concerned.

***“Corruption: The enemy within us and around.”***

### ***PERFORMANCE PROBLEMS/TRAINING NEEDS***

It is essential to establish that there is a performance problem, which necessitates this training module and will result in corrective measures leading to the performance level going up. In this context there is hardly any need to articulate the fact that there are problems because of corruption. Whether corruption is small time corruption in the day-to-day requirement of the common man or 'jumbo corruption' involving 'cuts' and 'kick-backs' in the multi crore deals, the ultimate effects is on the over all development of the society. It is a setback on the image of the country which is the largest democracy as is evident from the Corruption Perception Index 1999 given by Transparency International ranking India to be among the 10 most corrupt countries in the world. Also the common man feels the maximum pinch of corruption at all levels. Corruption also leads to total non-performance or delayed performance in various fields of governance. While on the one hand, one can confidently state that good governance will be a dampener for corruption; the converse is also true that poor governance leads to corruption. Some examples of how deep corruption has seeped into the system would be worth highlighting.

A recent article in a newspaper quoted some examples, which are listed below:

- a) Admission to Schools/Colleges - Rs.10,000/- to Rs.1,00,000/- depending upon the reputation of the Institutions courses of studies etc.
- b) Question paper leak - Rs.50,000/- for ordinary exams and Rs.2,00,000/- for engineering college exams.
- c) Govt. jobs - Rs.10,000/- for sweepers, Rs.25,000/- to Rs.50,000/- for Junior Engineer and Rs.2 lakh to 5 lakh for trained teachers.
- d) A few months back a racket of disappearing of newborn babies from one of the leading government hospitals was in the news.
- e) Cases of Match fixing in cricket had rocked the nation for many months and had iconoclast the heroes in the eyes of the nation.
- f) India Today May 6, 2002 has exposed the involvement of the Punjab State Public Service Commission's Chief in a recruitment racket from whom cash and property worth Rs. 27 crore have been recovered.

The list is endless. But the point is that performance or non-performance is the prize, the society and the common man has to pay for corruption. Corruption in India has gone far beyond giving or taking of bribe and has acquired a wider and more sinister

dimension. It has defiled and debased the hearts of the people in positions of power and authority and of many in business, trade, and industry and other professions. Bureaucrats

***“Allah Curses the giver of Bribes and the Receiver of Bribes and the person who paves the way for both parties.” --- PROPHET MOHAMMED***

and politicians are siphoning off government funds meant for the poor. But most alarming is the fact that we have accepted corruption as a way of life and have been tolerating it to a great extent.

## ***TRAINING OBJECTIVES***

In view of the performance problem and the consequent training need highlighted above, this three-day module on Combating Corruption has the following Training Objectives:

- a) **Training Objective No.1:** On completion of the module the participants will be able to describe corruption in its various forms, list out the causes and effects of corruption and state the various factors influencing corruption. This training objective is proposed to be achieved through a series of Enabling Objectives listed below:
  - i) **Enabling Objective No.1:** The participants will be able to define and identify various forms and levels of corruption.
  - ii) **Enabling Objective No.2:** The trainees will be able to list out the various causes of corruption in India.
  - iii) **Enabling Objective No.3 :** The trainees will be able to state the harmful effects of corruption.
  - iv) **Enabling Objective No.4:** The trainees will be able to list out the factors encouraging and influencing corruption.
  
- b) **Training Objective No.2:** On Completion of the module the trainee will be able to state the various steps and approaches towards combating corruption. This training objective is proposed to be achieved through a series of Enabling Objectives listed below:
  - i) **Enabling Objective No.1:** The trainees will be able to state the importance of values and ethics in fighting corruption.
  - ii) **Enabling Objective No.2:** The trainees will be able to state the various ways of increasing awareness about the need for fighting corruption.
  - iii) **Enabling Objective No.3:** The trainees will be able to state the importance of transparency in governance and Govt. procedure.

- iv) Enabling Objective No.4: The trainees will be able to list out the functions of various anti-corruption agencies and their roles in facilitating the fight against corruption.
- v) Enabling Objective No.5: The trainees will be able to list out the various other steps that may be taken in the fight against corruption.

***“Men are more often bribed by their loyalties & ambitions than money.”***  
**ROBERT JACKSON**

## LEARNING EVENTS

**Training Objective No.1:** On completion of the module the participants will be able to describe corruption in its various forms, list out the causes and effects of corruption and state the various factors influencing corruption.

Sl. No.	Enabling Objectives	Contents/Sequence	Method	Media	Time	Assessment
1.	E.O.-1	Define & identify various forms and levels of corruption i) Corruption – definitions ii) Corruption – India vs. other countries. iii) Spread of corruption in India. iv) Levels of corruption.	Lectures Discussions	W.B. OHP	75 mts.	Questions -Answers
2.	E.O.-2	Causes of Corruption in India i) In-efficiency and Non-implementation of government policies. ii) An action shy administration. iii) Absence/failure of checks and balances. iv) Lack of accountability of public servants.	Lecture Discussions  Case Study	W.B. OHP	75 mts.  75 mts.	Questions -Answer  Presentation
3.	E.O. - 3	Harmful effects of Corruption i) Corruption is anti-national ii) The poorest of the poor suffer. iii) Corruption is uneconomic. iv) It is unsafe. v) Harmful for our value system. vi) Damaging the image of India.	Lecture Discussions	W.B. OHP	75 mts.	Questions - Answer
4.	E.O.- 4	Factors encouraging and influencing corruption				

		<ul style="list-style-type: none"> <li>i) Historical factors</li> <li>ii) Psychological factors</li> <li>iii) Economic and social factors</li> <li>iv) Bureaucratic, Political &amp; social factors.</li> <li>v) Lack of transparency, obsolete rules and procedures.</li> </ul> <p>Our Judicial system.</p>	Lecture Discussion.	W.B. OHP	75 mts.	Questions -Answer
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***“Behind every corrupt man there is a greedy family.”***

**Training Objective No.2:** On completion of the module the trainees will be able to state the various steps and approaches towards combating corruption.

Sl. No.	Enabling Objectives	Contents/Sequence	Method	Media	Time	Assessment
1.	E.O.-1	<ul style="list-style-type: none"> <li>i) Taking a vow for realising of corruption free India.</li> <li>ii) Training in values and ethics.</li> <li>iii) Building of the national character.</li> <li>iv) Reporting of acts of corruption to the agencies like the CVC.</li> <li>v) Working as individual or with an NGO.</li> </ul>	Lecture Discussion	W.B. OHP	75 mts.	Questions - Answer

2.	E.O.-2	i) Political corruption vs. bureaucratic corruption - a vicious cycle. ii) Criminalisation of politics iii) Increase in the rate of literacy iv) Sustenance of middle class value of probity in public life. v) Awareness about the damage caused by corruption. vi) Corruption in higher echelons of society (and probity in the public life of corrupt people).	Lecture Group Work          Case Study	W.B.          W.B. OHP	75 mts.          75 mts.	Presentation          Presentation
3.	E.O. - 3	i) Computerization - subject it to public gage. ii) Right to information Act. iii) Judicial activism Increased transparency - Priority sectors with focus on economic reforms	Lecture Discussion	W.B.    OHP	75 mts.	Questions - Answer
<p><b><i>"No Legacy is as Rich as Honesty".</i></b>  <b>WILLIAM SHAKESPEARE</b></p>						
4.	E.O.- 4	i) Role of the CVC ii) CBI iii) Departmental vigilance divisions. iv) Seeking the help of the NGOs.	Lecture Discussion	W.B.    OHP	75 mts.	Questions - Answer
5.	E.O. - 5	i) Programme for elimination of black money. ii) Electoral reforms and representation of	Lecture Discussion	W.B.	75 mts.	-

		people's Act. iii) Using the provisions of the IPC. iv) Studies of corruption Perception Index. v) The zero tolerance action plan.	Group Work	OHP	75 mts.	Presentati on
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***“The proof of Honesty lies in its practice.”***

## ***COURSE GUIDE***

### **Introduction**

The country was liberated from the shackles of centuries of foreign rule at the stroke of midnight on 14/15<sup>th</sup> August, 1947. The five and a half decades that have elapsed since then have witnessed the country making tremendous progress in all areas – Notwithstanding this, the fact remains that the system is irretrievably afflicted with pervasion 'corruption'. The result is that the fruits of development have not trickled down to the common man, the poorest of the poor who need it the most. If every citizen of this country is to have a decent standard of living, the system has to rid itself of 'corruption'. Towards achievement of this goal, the foremost necessity is for the government servants who are the tools through which government implements its policies, should be exposed to the ill-effects of corruption and should be sensitized to fight corruption. This 3 day course on "Combating Corruption" has therefore been developed by Training Division, Deptt.of Personnel and Training, Govt. of India in collaboration with Institute of Secretariat Training and Management.

### ***TARGET GROUP***

The middle level Group 'A' officers in the government are those who generally influence the decision making process. The course therefore, targets Group 'A' employees of central as well as State Governments. The number of such officers to be trained is left to the respective governments or organizations.

### **COURSE AIM**

The course aims to impart knowledge about the various facets and levels of corruption in public life and impart necessary skills for creating an awareness about the various means through which corruption in Govt. can be combated and checked.

"Knowledge without integrity is Dangerous and Dreadful"

- SAMUEL HOHNSON

## COURSE OBJECTIVES

At the end of the course, the participants will be able to:-

- (a) Able to define and identify various forms and levels of corruption
- (b) List out various causes of corruption in India
- (c) State the harmful effects of corruption
- (d) List out the factors influencing and encouraging corruption
- (e) State the importance of values and ethics in fighting corruption
- (f) Identify various ways of increasing awareness about the need for fighting corruption
- (g) State the importance of transparency in governance and government procedure
- (h) List out the functions of various anti-corruption agencies and their roles in facilitating the fight against corruption
- (i) Identify various steps that may be taken in the fight against corruption
- (j) Prepare an action plan to fight corruption

## COURSE STYLE

The course duration will be three days. Since the course topic namely 'combating corruption' is more of a conceptual one, the methodology used during the course will predominantly be trainee centered methods like Group Discussion, Case Study etc. However, minimal inputs will be given through Lecture method as well.

Since Group work and presentation would be part of the course, participants would be required to interact in the evenings on their own. Hence it is preferable if the course is made a residential course.

The course is basically meant to be an interactive workshop. Thus the ideal batch strength would be 20 participants. However, under no circumstances the number of participants would be more than 25. Some reading material/handout will be given after each session for the participants to read at their own convenience.

***"When Vigilance Awareness comes Can the end of Corruption be far behind."***

## COURSE SCHEDULE

The course start at 0900 hrs on the first day. The normal sessions will begin at 1000 hrs. and will go upto around 1700 hrs. in the evening. Subsequent days i.e. 2<sup>nd</sup> and

3<sup>rd</sup> day, the course activities will begin at 1000 hrs. The valediction will be at 1700 hrs. on the 3<sup>rd</sup> day. The time table for the course is as follows:-

**TIME TABLE**

**3 DAY MODULE ON "COMBATING CORRUPTION"**

**Day - 1**

Sl.No.	Session	Method	Time	Assessment	Remarks
1.	Registration Introduction Expectation Sharing	-	0900 to 1000 hrs.	=	=
2.	Corruption-definition and levels, India Vs other countries	Lecture discussion	1000 hrs. to 1115 hrs.	Question- Answer	
3.	Causes of Corruption	Lectures, Discussions	1130 hrs to 1245 hrs.	-	
4.	Causes of Corruption	Case Study	1400 hrs. to 1515 hrs.	Presentation	
5.	Harmful effects of corruption	Lectures Group work.	15.30 to 1445 hrs.	Presentation	

**DAY - 2**

6.	Factors encouraging and influencing corruption	Lecture Discussion	1000 hrs. to 1115 hrs.	Question - Answers	
7.	Values and ethics in fighting corruption	Lecture Discussion	1130 hrs to 1245 hrs	Question - Answers	
8.	Increasing awareness about the need for fighting corruption	Lecture Group Work	1400 hrs. to 1515 hrs.	Presentation	
9.	Increasing awareness about the need for fighting corruption	Case Study	1530 hrs. to 1645 hrs.	Presentation	

***"Even when there is no law there is conscience" – PUBLICIUS SYRUS***

**DAY - 3**

10.	Transparency in governance and	Lecture Discussion	1000 hrs to 1115 hrs.	Discussion	
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	government procedure				
11.	Role of anti-corruption agencies	Lecture Discussion	1130 hrs. to 1245 hrs	Question - answers	
12.	Steps to fight corruption and Action Plan	Group Work Lecture	1400 hrs. to 1515 hrs.	Presentation	
13.	Steps to fight corruption and Action Plan	Group Work Lecture	1530 hrs. to 1645 hrs.	Presentation	
14.	Feed Back and Valediction		17.00 hrs.		

A number of case studies have been identified for running in this course. These are available elsewhere in the module. The trainers may choose an appropriate case-study wherever it is required. They may also choose a case-study outside the ambit of those given in this module, to suit their contextual requirements. This flexibility is required to ensure that the case-study fits into the scheme of things with particular reference to the background, experience and other entry behaviour parameters of the trainees.

***“The Honest need no props. The corrupt need accomplices.”***

COMBATING CORRUPTION								
S.No	Time	Minutes	MEDIA	METHOD	TOPIC		CONTENT	
1	09-30 to 10-00	30 Mts	Flip Chart -1	Discussion	Introduction & Expectation sharing	Self introduction Ask the participants to introduce themselves in the FC format in the FC Name? Organisation? Experience in Vigilance? How clean is your Organisation? What are the corruption prone areas in your organization? What do you expect out of this	by Faculty nts to Introduce Vigilance? Organisation ruption prone a organization? ect out of this	
2	10-00 to 10-30	30 Mts	White board	Discussion	Responding to participants' expectation			
3	1030 to 1045	15 Mts	TEA BREAK					
4	10-45 to 10-55	10 Mts	White Board OHP LCD Projector OHP-1, 2, 3	Discussion	Course Overview	Course	Coverage and	
5	10-55 to 11-05	10 Mts	Flip Chart –2 Flip Chart & Markers for the Groups	Group Exercise	What is Corruption?	Form four heterogeneous groups Groups to work on the following ➤ Attempt a definition of corruption? ➤ What are the features/characteristics of corruption? Findings to be recorded in Flip wall	ogeneous group on the followin definition of the features/ch corruption? ordered in Flip wall	
6	11-05 to 11-15	10 Mts	White Board OHP/LCD Proj OHP 4 - 12	Discussion	What is Corruption?	Refine the findings of the participants per the OHP	ings of the partic	
7	11-15 to 11-45	30 Mts		Case Study	Why to fight corruption?	Groups to work on the following a) Bombay bomb blast b) Black money c) Hawala d) xxxx Groups to make a presentation on the case and the learning derived therefrom	on the followin bomb blast money presentation ing derived th	
8	11-45 to 12-45	60 Mts	White Board OHP/LCD Proj	Presentation	Why to fight corruption?	Groups to give presentation. Focus on the evil effects of corruption	resentation. Fa of corruption	
9	12-45 to 13-00	15 Mts	White Board OHP/LCD Proj OHP –13	Lesson	Harmful effects of corruption	Highlight the following points a) Volume of corruption in Delhi	ollowing points of corruption in Delhi	

						b) Corruption in PDS c)		
10	13-00 to 13-30	30 Mts	White Board OHP/LCD Proj	Lesson	Global dimension of corruption	a) Corruption i) Kautilya;s r and ways and corruption ii) Warren Hast iii) Oldest Act 1 b) Fall of Government in J c) Honkong experience d) Singapore Experience		
11.	13-30 to 14-30	60 Ms	LUNCH BREAK					
12.	14-30 to 1500	30 Mts	Flip Charts	Group work	Causes of corruption	Groups to identify findings in Flip Charts/Transpare gravity	causes for corrup Charts/Transpare	
13	15-00 to 15-20	20 Mts	White Board Flip Charts OHP/LCD Proj	Presentation	Causes of corruption	Participants make presentation on corruption	presentation on	
14	15-20 to 15-30	10 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Causes of corruption	Faculty sum up		
15	15-30 to 15-45	15 Mts	TEA BREAK					
16	15-45 to 1645	60 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Organisation involved in combating corruption	Organisations involved in fighting a) Governmental i) AVD ii) CVC iii) CBI iv) DVU b) Non-Governmental  i) At International Transparency Internat Practices Investigations B Body of Singapore); Independent Commission Against PERC ii) (Citizens for CI What is the role and functions of	involved in fighting At International Transparency Internat Practices Investigations B Body of Singapore); Independent Commission Against PERC (Citizens for CI What is the role and functions of	

DAY - 2

1	09-30 to 0945	15 Mts	White Board Flip Charts OHP/LCD Proj	Discussion	Recap	Participants asked to recap learning of Day 1 a) What is Corruption? b) Causes of corruption c) Why to fight corruption d) Global dimensions of corruption e) Organisations to fight corruption
2	09-45 to 10-45	60 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Facets of Vigilance	Prevention Detection Punishment System refinement
3	10-45 to 11-00	15 Mts	Tea break			
4	11-00 to 12-15	75 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Punishment mechanism	Departmental and Criminal Proceedings Over view of PCA 1988
5	12-15 to 12-30	15 Mts	Break			
6	12-30 to 13-30	60 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Punishment mechanism	Over view of PCA 1988 – Role of Departmental authorities – sanction for prosecution; Parallel proceedings Aspects to be taken care of in parallel proceedings

7	13-30 to 14-30	60 Mts	Lunch Break			
8	14-30 to 15-30	60 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Departmental proceedings	Hot Stove Rule Characteristics of a Hot Stove a) Advance Warning b) Impersonal c) Immediate d) Consistency  Ways and means of enhancing effectiveness of departmental proceedings a) Preliminary Investigation b) Drafting of Charge Sheet c) Effective POs and IOs d) Analysis of IO's Report
9	15-30 to 15-45	15 Mts	Tea Break			
10	15-45 to 16-30	45 Mts	White Board Flip Charts OHP/LCD Proj	Discussion	Preventive Mechanism	Function specific Preventive Measures already available e.g. a) Rotation transfers b) Cutting down delays c) Reducing discretion d) Inspection e) Surprise checks f) Streamlining procedures
11	16-30 to 16-45	15 Mts	White Board Flip Charts OHP/LCD Proj	Lesson	Group work briefing	Participants to identify the corruption prone functions in different types of organizations  a) Hospital b) Construction agency c) Academic Organisation d) Financial organization e) Trading Organisation

						<p>What are the parameters for identifying Corruption prone areas? Example of parameters</p> <ul style="list-style-type: none"> <li>a) Frequency of operation</li> <li>b) Status of the costumer</li> <li>c) Stakes of the costumer</li> </ul> <p>What are the preventive measures suitable for each corruption activity? (Suitability of the preventive measures in terms of the nature of corruption)</p> <ul style="list-style-type: none"> <li>a) If the traces of corrupt activity will not be visible for a long time, surprise physical check is a suitable mechanism</li> <li>b) If the evidence of corruption could be inferred from records, audit would be suitable</li> </ul>
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Day -3

1	09-30 to 1045	60 Mts	Flip Charts Transparencies	Group Work	Anti Corruption measures	Group work by participants
2	10-45 to 11-00	15 Mts	Tea Break			
3	11-00 to 12-15	60 Mts	Flip Charts Transparencies	Group Work	Anti Corruption measures	Group work by participants
4	12-15 to 12-30	15 Mts	Break			

5	12-30 to 13-30	60Mts	White Board Flip Charts OHP/LCD Proj	Presentation	Anti Corruption measures	Groups Make their Presentations 20 Mts for presentation and 10 Mts for discussion two group presentation
6	13-30 to 14-30	60 Mts	Lunch Break			
7	14-30 to 15-30	60Mts	White Board Flip Charts OHP/LCD Proj	Presentation	Anti Corruption measures	Groups Make their Presentations 20 Mts for presentation and 10 Mts for discussion two group presentation
8	15-30 to 15-45	15 Mts	Tea Break			
9	15-45 to 16-15	30 Mts	White Board Flip Charts OHP/LCD Proj	Discussion	Role of a citizen	Role of a citizen is combating corruption Being a role model Cooperating with the authorities Vow not to give bribe Complaints mechanism with CVC Creating awareness among public
10	16-15 to 16-45	30 Mts	White Board Flip Charts OHP/LCD Proj  Action Plan Forms		Action Plan	Participants to prepare an action plan in with specific reference to their organization covering the following: a) What action is proposed to be taken for combating corruption? b) What are the anticipated hindrances in the action? c) What are the results expected?
11	16-45 to 17-	45 Mts	Feedback Form			Feedback and valediction



## Corruption in its various forms and level

The word 'corruption' may have differing connotation to different people. Political scientists, historians, economists, academicians, intelligentsia and their ilk may define the term according the way they perceive it! It may also be true that the description of corruption by different persons may not always be similar. However there are certain aspects about corruption which are universal and acceptable to one an all. The first and foremost truth is that 'corruption' has been in existence since time immemorial. It is a fact that corruption exists in all societies of the world is varying degrees. None can deny that some countries are more damaged by corruption than others. The maximum ill-effects of corruption have been in countries which are in various stages of social, political and economic development. Underdeveloped and developing countries and emerging democracies in fact find themselves in a predicament where they are desperately searching for ways and means of combating the corrosive and cancerous effects of corruption.

2. Today India and Indians find themselves at the cross-roads. Ours is the largest democracy in the world with a population of over a billion. We made a tryst with destiny at the stroke of midnight of 14/15<sup>th</sup> August, 1947. Now after 55 years we can certainly call ourselves a reasonably mature democracy. We have traversed a long path. The machinery of our democratic set up is based on the firm foundations of the Constitution and the three pillars of executive, judiciary and legislative. This is well supported by the presence of a vibrant 'fourth estate'. We have made tremendous progress in various fields. The industrial infrastructure we have, can manufacture almost every item ranging from a small pin to ships, air-crafts and super computers. Far from the days of PL-480, we are now self sufficient to feed our teeming millions, nay billions! Our manpower of scientists, engineers, soft-ware experts etc. not only fulfill our requirements but also make their presence felt around the globe.

3. With all the positive features brought out above, in these 55 years of independence, Indians in general and the rural population in particular should be enjoying a reasonably high standard of living. Unfortunately the present situation is diametrically opposite. As per the National Human Development Report 27.09% of the people are below the poverty line. Even

*"Power Corrupts the few while weakness corrupts the many." - ERIC HOFFER*

after 55 years of democratic rule, the country is facing numerous critical problems! Of all the problems, the most glaring, alarming and lethal one is the pervasive corruption in the

polity, in administration, in society and in business. In fact 'corruption' has seeped into all walks of life to such an extent that some people tend to take this as an accepted way of life. The extensive damage that 'corruption' has caused to the social fabric of our country is of great concern to each one of us. But that is not to say that there is no solution to this problem. Corruption is a menace but certainly not insurmountable. Corruption can be checked and combated to a great extent. Corruption that is eating into the vitals of the country, has to be checked and combated.

### What is Corruption

4. In simple terms corruption can be defined as "misuse of public money for private purposes". Corruption can also be defined as nepotism patronage and a variety of acts of omissions/commissions which may or may not involve direct or immediate financial considerations. The prevention of corruption Act 1988 which applies to public servants describes corruption basically in terms of "taking gratification other than legal remuneration in respect of an official act". The word gratification is not restricted to pecuniary gratification or to anything that can be estimated in terms of money. The offence consists of accepting or agreeing to accept, or obtaining or attempting to obtain any such gratification 'as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show, in the exercise of one's official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person'. The Act also discusses other offences like related misconduct such as taking gratification in order to influence a public servant in the exercise of his/her official/duties, acceptance of gifts by public servants and possession of wealth disproportionate to one's known sources of income'. The various provisions of the prevention of corruption Act 1988 thus add upto a reasonable working definition of corruption.

### Corruption - India Vs other Countries

5. 'The Economist' of 4 September 1999 stated that "India is the world's greatest under-achiever". This may be unpalatable to most of us but

***"You shall not take bribe for a bribe Blinds the eyes of the Wise and Subverts the cause of the Righteous" --- BIBLE***

indeed an undeniable truth. Compared to many other developing countries of Asia and Latin America, India has not achieved the same kind of all-round progress during the last 5 decades. If one has to indicate a singular reason for this state of affairs, it can be

nothing but the massive corruption that has become a fundamental threat to the political, economic and social well-being of the country.

6. Corruption manifests itself in various forms and covers a variety of transactions and operates at many levels. Corruption may be attributable to a plethora of reasons like acts of commissions and omission or delay, exercise of discretion or violation of rules. However illegal gratification can be taken by people even while working within the ambit of laid down rules and regulations. Corruption can be in the form of cash, in kind, any other services or favours. A wide gamut of transactions like contracts for the purchase of goods and services; appointments, postings, transfers and promotions of Government servants etc. are generally susceptible to the menace of corruption. The list can be exhaustive and what has been highlighted above is only a representative sample. Before we discuss the various levels of corruption, let us attempt a comparison of the degree of corruption in India vis-à-vis other countries.

### India Vs other Countries

3. A comparison of corruption in India and other countries is indeed revealing. When the country attained independence by shaking itself free of the colonial yokes in 1947. Prime Minister Jawahar Lal Nehru in his Independence Speech stated that India had a tryst with destiny. He immediately started working towards building a great nation, a secular democratic and united India, an India which could proudly play its role in the comity of Nations: a role befitting a great people. Father of the Nation Mahatama Gandhi in his own inimitable style talked about building a nation that could wipe off the tears of the poorest people who stood lost in the multitudes with no identify of their own. Years rolled by and the country made rapid strides in various fields. But side by side people in power started getting greedy. And the greed of the people who were entrusted with power soon turned the dream into nightmare. Politicians, bureaucrats, criminals and law-makers rolled into one to make life hell for the public in general and the poor man in particular. Idealism has given place to cynicism.

Even the credibility of our law making bodies like legislatures and even Parliament at times and the capacity to guard the rights of the people by

***“The corrupt have many masters. The honest serve none”.***

the executive have badly suffered. The decay has reached a stage where any further delay is bound to be fatal. Majority of the people who have been watching this deterioration from the side lines have to wake up from their slumber and think of ways to combat the pervasive corruption that has spread like the tentacles of a hydra. This is absolutely essential to ensure that in the next couple of years the country finds a sense of direction and purpose.

8. Now let us have a look at the international scenario and find out as to where do we stand in comparison to other countries as far as spread of corruption is concerned. A study conducted by Transparency International and Goettingen University of Germany about the extent of corruption in 54 countries showed India to be the 9<sup>th</sup> most corrupt country in the world. The following table lists the 54 countries arranged in a descending order of integrity. A score of 10 means that the country is totally corruption free and will find itself perched at the top of the table. Similarly, a score of '0' means that the country is totally dishonest and will find itself at the bottom of the table. A perusal of the table would reveal that while no country had gained a score of 10, New Zealand tops the table with a score of 9.43. At the bottom of the table in Nigeria with a score of 0.69 whereas India with a score of 2.63 is at Ser.No.46 is the 9<sup>th</sup> most corrupt country in the world.

### Transparency International Corruption Perceptions Index, 1996

Rank	Country	Score
1.	New Zealand	9.43
2.	Denmark	9.33
3.	Sweden	9.08
4.	Finland	9.05
5.	Canada	8.96
6.	Norway	8.87
7.	Singapore	8.80
8.	Switzerland	8.76
9.	The Netherlands	8.71
10.	Australia	8.60
11.	Ireland	8.45
12.	United Kingdom	8.44

***“The litmus test of honesty is whether you can resist temptation when everything is at stake.”***

13.	Germany	8.27
14.	Israel	7.71
15.	USA	7.66
16.	Austria	7.59
17.	Japan	7.05
18.	Hong Kong	7.01

19.	France	6.96
20.	Belgium	6.84
21.	Chile	6.80
22.	Portugal	6.53
23.	South Africa	5.68
24.	Poland	5.57
25.	Czech Republic	5.37
26.	Malaysia	5.32
27.	South Korea	5.02
28.	Greece	5.01
29.	Taiwan	4.98
30.	Jordan	4.89
31.	Hungary	4.86
32.	Spain	4.31
33.	Turkey	3.54
34.	Italy	3.42
35.	Argentina	3.41
36.	Bolivia	3.40
37.	Thailand	3.33
38.	Mexico	3.30
39.	Ecuador	3.19
40.	Brazil	2.96
41.	Egypt	2.84
42.	Colombia	2.73
43.	Uganda	2.71
44.	Philippines	2.69
45.	Indonesia	2.65
46.	India	2.63
47.	Russia	2.58
48.	Venezuela	2.50
49.	Cameroon	2.46
50.	China	2.43
51.	Bangladesh	2.29
52.	Kenya	2.21
53.	Pakistan	1.00
54.	Nigeria	0.69

9. A survey of 99 countries spread over 5 continents was carried out by Transparency International. The 1999 Transparency International Corruption Perception Index (CPI) published on the basis of the above survey is reproduced in the following table. Denmark finds a place of honour in the list at Ser.No.1 with a CPI index score of 10, i.e., the most

and completely honest country in the world. The wooden spoon goes to Cameroon with a score of 1.5 at Ser.No.99. India is at Ser.No.72 with a score of 2.9.

Rank	Country	1998 CPI Score
1.	Denmark	10.0
2.	Finland	9.8
3.	New Zealand	9.4
4.	Sweden	9.4
5.	Canada	9.2
6.	Iceland	9.2
7.	Singapore	9.1
8.	The Netherlands	9.0
9.	Norway	8.9
10.	Switzerland	8.9
11.	Luxembourg	8.8
12.	Australia	8.7
13.	United Kingdom	8.6
14.	Germany	8.0
15.	Hong Kong	7.7
16.	Ireland	7.7
17.	Austria	7.6
18.	United States	7.5
19.	Chile	6.9
20.	Israel	6.8
21.	Portugal	6.7
22.	France	6.6
23.	Spain	6.6
24.	Botswana	6.1
25.	Japan	6.0

***“The honest have value. The corrupt have a price.”***

26.	Slovenia	6.0
27.	Estonia	5.7
28.	Taiwan	5.6
29.	Belgium	5.3
30.	Namibia	5.3
31.	Hungary	5.2
32.	Costa Rica	5.1

33.	Malaysia	5.1
34.	South Africa	5.0
35.	Tunisia	5.0
36.	Greece	4.9
37.	Mauritius	4.9
38.	Italy	4.7
39.	Czech Republic	4.6
40.	Peru	4.5
41.	Jordan	4.4
42.	Uruguay	4.4
43.	Mongolia	4.3
44.	Poland	4.2
45.	Brazil	4.1
46.	Malawi	4.1
47.	Morocco	4.1
48.	Zimbabwe	4.1
49.	El Salvador	3.9
50.	Jamaica	3.8
51.	Lithuania	3.8
52.	South Korea	3.8
53.	Slovak Republic	3.7
54.	Philippines	3.6
55.	Turkey	3.6
56.	Mozambique	3.5
57.	Zambia	3.5
58.	Belarus	3.4
59.	China	3.4
60.	Latvia	3.4
61.	Mexico	3.4
62.	Senegal	3.4

***“The corrupt have wealth. The honest have worth.”***

63.	Bulgaria	3.3
64.	Egypt	3.3
65.	Ghana	3.3
66.	Macedonia	3.3
67.	Romania	3.2
68.	Guatemala	3.2

69.	Thailand	3.1
70.	Nicaragua	3.0
71.	Argentina	2.9
72.	Columbia	2.9
73.	India	2.7
74.	Croatia	2.6
75.	Cote d'Ivoire	2.6
76.	Moldova	2.6
77.	Ukraine	2.6
78.	Venezuela	2.6
79.	Vietnam	2.5
80.	Armenia	2.5
81.	Bolivia	2.4
82.	Ecuador	2.4
83.	Russia	2.3
84.	Albania	2.3
85.	Georgia	2.3
86.	Kazakhstan	2.2
87.	Kyrgyz Republic	2.2
88.	Pakistan	2.2
89.	Uganda	2.2
90.	Kenya	2.0
91.	Paraguay	2.0
92.	Yugoslavia	2.0
93.	Tanzania	1.9
94.	Honduras	1.8
95.	Uzbekistan	1.8
96.	Azerbaijan	1.7
97.	Indonesia	1.7
98.	Nigeria	1.6
99.	Cameroon	1.5

***“To make your children capable of honesty is the beginning of education” --- JOHN RUSKIN***

### Spread of Corruption at Various Levels

10. When the country attained independence in 1947, the bureaucracy that we inherited from the pre-independence era was considered to be extremely efficient, disciplined and fully devoted to fulfill their responsibilities towards the country's administration. The members of the illustrious Indian Civil Service (ICS) which was in the

top rung of the bureaucratic ladder, were comparable to the best civil servants anywhere in the world. Fifty years down the lane, the bureaucracy in general and the Indian Administrative Service which is the indigenous version of ICS, have attained the dubious distinction of being one of the worst even in Asia what to talk of the world. In the year 1998, a Hong Kong based organisation known by the name 'Political and Economic Risk Consultancy' had conducted a survey of businessmen who have been interacting with bureaucracies of Asian countries. The survey graded 12 bureaucracies of Asian countries in a scale of 1 to 10 where a rating of 1 would denote the most efficient and 10 the least efficient. The result of the survey which was circulated in the region is given in the following table. On a 10 point scale Singapore was rated best with a score of 2.53 and Vietnam was rated worst with a score of 9.00. India is 9<sup>th</sup> with a score of 8.00.

Efficiency Rank	Country	Point
1.	Singapore	2.53
2.	Hong Kong	3.11
3.	Malaysia	5.43
4.	Taiwan	6.25
5.	Japan	6.69
6.	Thailand	6.88
7.	Phillippines	7.25
8.	China	7.33
9.	India	8.00
10.	Indonesia	8.00
11.	South Korea	8.27
12.	Vietnam	9.00

11. There can be no two opinions about the need to address the menace of pervasive corruption in the country at all levels. Before that it may be worthwhile to identify the various levels in which corruption prevails. Some of them are political, bureaucracy, Police, Judiciary, Education, Medical Services and last but not the least Business and Industry.

***“Do not do what you would undo if caught”. --- LEAH ARENDT***

12. Let's briefly talk about political corruption. When the country attained independence, we had a set of political leaders who had sacrificed everything they had for the Nation. They were all of impeccable status and had unquestionable credentials. However down the years, gradually but firmly greed for money and wealth put loyalty to the country and its people into oblivion. The split in the monolithic Congress in 1969 resulted in the young Indira Gandhi taking total control of the party and the Government. Probably it was during her reign and regime that corruption took firm roots in the country. She did not help matters by her open advocacy of a "committed bureaucracy" and of course her famous remarks that "corruption is a global phenomenon".

13. A remark of the kind mentioned above by the head of the government was the cue that was needed for the bureaucracy to go berserk . Indian bureaucracy came to be rated to be the 9<sup>th</sup> in a list of 12 Asian countries. Though examples of bureaucratic corruption are a legion, the employment Assurance Scheme (EAS) inaugurated on 2 October, 1993 would illustrate the case well. The scheme with an avowed aim of providing at least 100 days of employment to the rural agricultural workers during lean season was spread over 23 States and 4 UTs. Under the scheme, Central and State Govts. Have spent more than Rs.4500/- Crores. Investigation by Comptroller and Auditor General's office have revealed that District Collectors, Block Development Officers and local politicians have been lining their pockets with the project funds. In a particular case in Nagaland, the project Director withdrew Rs.11.20 crores from a SB A/C (No. 012/4835) in the SBI, Kohima to a fixed deposit in his name. The fixed deposit remained so far 180 days and earned an interest of Rs.56 lakhs. After the lapse of 180 days, the amount was transferred back to the project account but the interest of Rs.56 lakhs was retained by the officer. Similarly in Maharashtra, District Soil Conservation Officer, Malegaon doled out Rs.32.82 lakhs to voluntary organisations which were neither registered nor had worked in rural areas. In States like AP, Karnataka, MP, Sikkim, TN, Gujrat and West Bengal EAS works worth Rs.193 crores was passed on to contractors and middlemen whereas these works should have been given to farmers and labourers. The net result was that the rural poor who were assured 100 days of employment under the scheme got only 16 to 19 days of employment and in many cases at wages far below the prescribed minimum.

14. The situation in Police which is the law-enforcing wing is no different. If the common man has a grievance and wants to file an FIR, he has to bribe

***“An honest man is the noblest word of God” – ALEXANDER POPE***

the police. If he wants to get some redress, he has to pay more. Every locality has 'goondas' who collect protection money or 'hafta' from shopkeepers and others. These goondas in turn bribe the police to ensure that they look elsewhere. The most glaring example of corruption in police is seen in Delhi where the 'Chartered Bus' operators have to bribe the traffic policemen at various traffic interjections. The chartered buses are peculiar to Delhi. These run from point to point and pick up regular passengers. They are indeed the lifeline of many colonies in the outskirts of Delhi which are not served well by the Govt. transport or private buses. But they can survive only if they grease the palm of the traffic police. What is astonishing is the transparency with which deals take place and money paid. In a particular route there may be a few check points and each bus organiser has to pay a fixed amount per month at each point. Money is paid to the policeman in the presence of a supervisory officer and a formal entry is made in a small pocket note book with the policeman and the driver. If the driver is stopped again during the same month at the same point, he can show his note book as proof of his payment. He

is allowed to go. These are called honesty in dealings. Yes honesty in dealings of corruption! What can be done to combat this?

15. Another level where corruption prevails is education. Universities and colleges which are expected to be centres of excellence have become, barring exceptions, hotbeds of corruption. In an article published in the pioneer in its New Delhi edition dated 25 January, 1999. Joginder Singh former CBI Director describes the situation as follows:-

“The problem (of corruption) has percolated to the portals of education as well. According to a recent report, there is a big market for the supply of blank marksheets that cater to all requirements. It is said that a fake undergraduate marksheet with a matching degree is available for Rs.17,000; a Master’s degree is available for Rs.20,000 and above; a Ph.D costs between Rs.40,000 and 60,000. These certificates, with luck and no hard work, can get the holders jobs of clerks, lecturers and various other jobs where no independent examinations are required to be conducted. In fact, during one of the CBSE examinations, examiners made an open offer to all examinees to openly copy by paying a sum of Rs.1,000 each. There is a tendency in the system to sweep everything under the carpet. How will more outlay in the education sector help, if instead of producing bright academics and students, the system promotes copy-cats and fake degree holders? There is a general atmosphere of deterioration and indiscipline. The

**“Bright future awaits the honest. Shady past haunts the corrupt.”**

situation has been made worse by the general perception that one can literally get away with murder”.

16. There we are! Corruption at all levels! Corruption has seeped into every nerve centre of the social fabric! Where do we go from here? Is it the end of the road? Are we as a Nation destined to get further mired into the quicksand of corruption? Or for once are we going to rise as one and initiate a process, however small it may be, that culminates in an uprising against corruption. Martin Luther King the great American Civil rights leader said’ “ The ultimate tragedy is not the brutality of bad people but the silence of the good people”. It is high time that all such good people stood up as one to combat corruption.

***“The wealth earned through pious means flourishes. Those who earn through dishonest means are destroyed” – ATHARVA VEDA***

## CAUSES OF CORRUPTION

Lord Acton said 'Power tends to corrupt and absolute power corrupts absolutely'. Logically power in any field and political power in particular should be a great aphrodisiac that caters to the ego of man. Therefore power itself should be enough to satisfy the ego and should not be the cause of corruption. However, in reality this logic does not gel as far as corruption is concerned. We have seen that more powerful one is more immune one becomes to the codified values and ethics in life. Let us take the example of two cases where a client has taken monetary loan from a bank. In the first case, there is a student who has taken an education loan of say Rs.25000/- from a bank and the second is the case of an industrialist who has taken a loan of Rs.25 lacs to set up a factory. In the first case the student will be afraid of the bank whereas in the second case the bank will be afraid of the industrialist. This may look odd to look at but it is the reality in most cases. Recently there was a report in the newspapers about the case of a bank lending about 11,000 crore rupees to an industrial house and then proposing to reflect the debt as non-performing assets. If things like this happen, the reason is for all to see. Yes it is the ubiquitous corruption that is the fundamental reason. Corruption may be reduced if not eliminated if there is good governance and good governance require formulation and implementation of effective policies which have the public well-being as their objective. For this we need a bureaucracy which has the ability to formulate policy with public well-being and public well-being alone as their objective. Formulation of well intended policies would be an effort in futility if there is no effective implementation. For the effective implementation of any policy, the foremost requirement is an administration that has and exhibits a high degree of willingness to act and act effectively. The proof of an effective administration is in implementing policies for good governance. But these things look too idealistic on paper and the reality is far from this. Lack of good governance and the consequent corruption that pervades everywhere can be attributed to the following:

- a) Non-implementation or inefficient implementation of Government policies.
- b) An administration that is shy of action i.e. inability to implement policies by accident or design;
- c) Absence of checks/balances or their failure where available and
- d) Lack of accountability of public servants who have the mandate to implement this policies.

***“The wealth earned through pious means flourishes.  
Those who earn through dishonest means are destroyed”.***  
– ATHARVA VEDA

**Inefficiency in implementation**

2. Prime Minister Jawaharlal Nehru had invited Paul Appleby an expert to India in the fifties. The main objective of the invitation was to conduct a study of the Indian Administration. Without going into the results of the study, it would be interesting to recall the one observation that Paul Appleby made about Indian Administration. He just said that "Indian administration in action shy". The observation made by Paul Appleby more than 50 years ago is as true to-day as it was then. But the proof of the pudding is in its eating they say. So let us look at a couple of examples to understand the seriousness of the situation.

3. There is a Benami Transaction prohibition Act which was enacted in September, 1988. Sh.N.Vittal, the then Central Vigilance Commissioner in his 'The S.Ranganathan Memorial Lecture' delivered on 30 November 2001 has this to say about the above mentioned act:

"An example of the first type is the Benami Transaction Prohibition Act which was enacted in September 1988. Section 5 of the Act says that benami property will be confiscated by the Government. Section 8 says that Government will prescribe the rules under which the confiscation of benami property can take place. You will be surprised to know that more than 13 years have passed and still the Government have not issued instructions! As the Central Vigilance Commissioner, I was very keen on implementing this law because bulk of the ill-gotten wealth of the people who are corrupt is in the form of benami property or benami bank accounts. On 3<sup>rd</sup> January 1999, I wrote to the Secretary of the Department of revenue requesting that rules under Section 8 may be framed and the power of confiscation entrusted to the CVC. There was no reply. There was a press report sometime later that the Government wanted to withdraw the Act. This was at the time when the Prime Minister had given a clarion call in his address to the nation on 16<sup>th</sup> October 1999 that there should be zero tolerance of corruption. I wrote back to the government to find out whether zero tolerance of corruption probably meant zero action in implementation. Then I got standard reply that the matter was under consideration. Well, it is still under consideration".

***"On this earth there is enough for everyone's need  
but not for their greed" ---- M.K.GANDHI***

4. Can there be a better example of policies, well intended policies at that, not being implemented at all. If this is one end of the spectrum, the other end is equally appalling. There are numerous cases where policies of the government are announced with a lot of fanfare. Especially many of the anti-poverty programme are launched with a lot of publicity and vigour. To give there programme an inflated importance, they are often named as PM's Rojgar Yojana (Prime Minister's Employment Scheme) or CM's Sadak

Pariyojana (CM's Road Scheme) and about these programmes, the less we talk about the better. The situation was aptly described by Prime Minister Rajive Gandhi when he observed that for every rupee meant for the poor, hardly 15 paise reached the beneficiary. Out of the remaining 85 paise 40 paise may be spent on administration overheads but the other 45 paise is definitely eaten by corruption by the middle men bureaucracy, etc.

***“Corruption: The enemy within us and around”***

## HARMFUL EFFECTS OF CORRUPTION

'Corruption violates the public trust and corrodes social capital.' In India it has distorted the planning and development processes, and nullified poverty eradication schemes. Corruption has robbed political parties of their ideological élan and turned them into opportunistic power seekers.

Corruption is not a static phenomenon. It feeds on itself and, like cancer, it keeps spreading and eating into the vitals of the system. When somebody wanted Edward Gibbon to tell in one word the cause of the fall of the Roman Empire, he said, "Corruption", and added 'Yes, corruption, amorality and lust for power...destroyed the Roman Empire which ruled almost 300 years...'. In India we never had the present level of corruption before. It has become the single greatest threat to the stability of the state. Bofors and Hawala scandals have nearly destroyed the mighty Congress. Criminals are threatening to take over the polity. In their golden speeches both the President and the Prime Minister described corruption as the greatest challenge facing the country.

In the social and political arena the Indians are not given to much indignation even when the provocation is really grave. We accept gross violations of human rights, rank mis-governance, denial of our legitimate due, high levels of corruption and myriad other injustices and tyrannies without much protest or agitation. Our culture and social mores have something to do with this public apathy and individual indifference.

The then Prime Minister of India, I.K. Gujral, spoke in the same strain when he addressed the nation from the ramparts of the Red Fort on 15 August 1997. Referring to the question of corruption he said:

Now, with great sorrow and seriousness I want to draw your attention towards the ill of this country, which is called corruption. Corruption is eating into the vitals of the country. The country is in great danger from those who occupy higher offices and betray the nation by accepting bribes. If the country's enemies attack us from outside, our gallant army is capable of facing them and they put their lives at stake in the most difficult circumstances. But if somebody from inside becomes a traitor by accepting bribes and betrays the nation, he creates a great danger to the country. Corruption is rampant everywhere. It seems that whatever it is a matter of government purchases, paying of taxes, paying of customs duties, some people

*"Allah Curses the giver of Bribes and the Receiver of Bribes and the person who paves the way for both parties" ---PROPHET MOHAMMED*

think that corruption is their birthright. I make a promise to you that the long arms of the law will be further strengthened to ensure that no one who accepts bribes escapes the grip of the law. I take it as my first and foremost duty and as a promise to the nation that an accused, whether he belongs to politics or government would not be exonerated if he commits such a sin.

It is all the more unfortunate that common men face more difficulties because of petty corrupt practices. Even the slightest of work cannot be completed with bribing somebody, whether it is police stations, a village patwari, municipality, an electric station, telephone department or the revenue department. Everywhere the sin of corruption is there. The common man especially the poor and the middle class just feel helpless. On several occasions, I have seen this feeling of helplessness written large on their faces.

The nexus between the corruption and politics has taken a turn for the worse today when criminals are entering politics. When I see the dark clouds ahead, I feel more determined to eliminate this challenge of corruption. Government alone will not be able to do this work. When the cancer worsens we all have to pay attention to it.

### **The consequences or effects of Corruption**

Corruption is so harmful that its prevention merits strong support. In this hand out an attempt has been made to highlight the harmful effects of corruption

**A) Corruption is Anti National-** Corruption threatens national security and is anti national. The Tehelka.com expose on 13.2.2001 highlighted the extent of corruption in politics and defence deals.

Here is an account of some stray linkages, which show how the lure of money entraps unsuspecting persons in a web of criminal transactions and, worse still, anti national intrigues.

To begin with a small incident, let us take the case of Shekhadi, a fishing village in Raigad district of Bombay, which is a favourite landing ground for contraband. Memon now Dubai based (a protege of Dawood Ibrahim) had complete sway over this village as he distributed generous handouts to the villages and the local bigwigs. The customs and police officials of this area were also on his pay roll. So when crates of RDX and other ammunition landed there in the third week of February 1993, everybody gave Memon a helping hand in carting away the cargo. It is said that the locals and officials were aware of the nature of the cargo that had

***“Men are more often bribed by their loyalties & ambitions than money”.***  
**ROBERT JACKSON**

landed in the village, though they did not know the target. But Memon had bribed them into total servility and silence, and nobody breathed a word.

In 1995 N.N. Vohra, Home Secretary, submitted a report on the criminalization of politics. He observed ..... a network of ..... mafias is virtually running a parallel government pushing the state apparatus into irrelevance.... Further, quoting DIB sources he stated:

There has been a rapid spread and growth of criminal gangs, armed senas, drug mafias, smuggling gangs, drug peddlers and economic lobbies in the country which have over the years developed an extensive network of contacts with bureaucrats, government functionaries at the local level, politicians, mediapersons and strategically located individuals in the non state sector. Some of these syndicates have also international linkages including the foreign intelligence agencies.

What lends special weight to these observations is that they were made in an official, confidence report, written by a highly responsible insider.

Now a days for the politicians there is no bar corruption, crime, and politics have become inseparable. The lynchpin of this triad is power. Power is acquired by winning elections. Huge amounts of money are spent to win elections. This money comes from people with vested interest like tax evaders, hawala operators, smugglers drug traffickers corporate world. Money is also earned through criminal activities; it is not necessary that the minister or politician would know where the donation or bribe given to him has come from? These people when caught doing dirty work by police or CBI are rescued by their benefactors. The flow of huge amounts of money is accompanied by use of violence during elections. Booth capturing, frightening away hostile voter has become a common practice. Now the ministers quote "Unless you have 100 men with guns you cannot contest elections. They feel that they are being honest if they declare that they have kept goondas, for without them it is virtually impossible to win elections.

It not only the criminalisation of politics but much more sinister factor is the politicization of the criminals. Now criminals are entering into politics themselves. People with charged with murder cases those desired under the National Security Act, with criminal charges, are contesting and even winning elections. MLA's having criminal backgrounds has become a common thing. Victory procession after elections in states like UP and Bihar are common sights.

***"Behind every corrupt man there is a greedy family."***

Criminals entering politics followed as a national phenomenon since politicians were using them to gain power. They earlier captured the booths for politicians now they themselves are in power. This is the grim picture of our election process.

The story does not end here. The big time economic crimes with political linkages and international ramifications are highly secretive and professional affairs. The irony is that the people involved would not even know one another or the party who has masterminded it. Hawala has now become a household word in India. It is a private banking system for transferring money from one country to another. Here deals are made by word of mouth, and operations, are based on implicit trust. It is a very reliable and speedy channel for handling all types and colour of money, whether white or black, and its network spans the whole globe. If an Indian goes to a local hawala operator who gives him a code which his foreign contact uses to collect the money from another hawala dealer at the other end. The process is reversed when foreign money is sent to India. No paperwork is involved, no telltale traces are left behind, and the exchange rates offered are better than those given by regular banks with their expensive overheads. Businessmen and politicians have sent thousands of crores of their black wealth abroad through the hawala route, and political parties have received large amounts from foreign sources through the same channels.

Another disturbing aspect of such payments is that the recipient never knows into what sort of web he may get caught in becoming a part of this racket. As it came to be known, the same hawala operators served as conduits for the Jains as well as for the Kashmiri terrorists. Moolchand the Bombay based king of hawala dealers not only worked on behalf of the Jains but also for the Memon brothers who are held responsible for the Bombay blasts of March 1993. Kalpanath Rai the Central minister, was prosecuted for harbouring terrorists and sentenced to ten years imprisonment (though later acquitted on appeal). Thus once you entered the cesspool of venality, you never knew in what direction you could slip and how far you would go. Once a politician is caught, he becomes an easy target of blackmail and may be forced to compromise national interest. The saddest part of this story episode is its denouncement. Practically all the politicians have been exonerated of the charges against them, and even the Jain brothers the main accused have been acquitted in the Hawala case.

The corruption driven politics crime nexus is not only eroding the foundations of the Indian polity, it also poses a threat to the country's security. In view of the gravity of the matter the Supreme Court had directed the government

***“No Legacy is as Rich as Honesty” --- WILLIAM SHAKESPEARE***

in March 1997 to appoint a high level committee to examine the allegations referred to in the Vohra Committee Report. The government had appointed this Committee under Vohra's successor. But going by the fate of the earlier reports, one cannot say that the country will watch the outcome of this Committee's labours with bated breath.

**B) CORRUPTION IS MOST UNFAIR TO THE COMMON MAN - The poorest of the poor suffer the most.**

Corruption denies the poor their share, small as it is. 'A state with endemic corruption can be especially brutal to the very poor, who have no resources to compete with those willing to pay bribes.' UNDP, 1997. [here the participants can be given a case study of Kols.] Corruption also worsens gender inequalities because corrupt payments make it easy to evade requirements for equity, in employment for example. Also, where women repay loans more promptly than men do, it puts them at a disadvantage in a corrupt society. The payment of bribes to the critics makes it possible to win their silence. Justice can be subverted; exploitation and human rights abuses may be hidden.

In India the plight of the rural poor is misdialed. A poor villagers has to interact mainly with the patwari and police constable. There is hardly any sphere of public administration, which is not infested with corruption. The Government have set up many Committees and Commissions to study public administration. But the examination of the ways in which relief to the illiterate and ill-informed villagers from excesses of these two functionaries has never been there. A patwari is the primary agency for maintaining village records. He records all sales, transfers, partitions and mutations of land in the village papers. And every transaction provides him with an opportunity to make money. At the time of abolition of zamindari rights, it was with the connivance of the patwari that the landlords were able to parcel out large chunks of their estate to their relatives and benami (fictitious) entities, thus retaining most of the land in excess of the prescribed limit. It was again with the help of the revenue officials that land ceiling laws were circumvented. Several industrials houses have purchased large farms for growing commercial crops. Even if those lands are lying fallow, patwaris records show lush crops standing there, thus enabling the owners to launder large amounts of black money by showing it as tax-free agriculture income.

The state governments provide hundreds of crores for disbursements as Taccasvi (agricultural loan) to cultivators so as to release them from the clutches of moneylenders. The applicant has to show his entitlement to the land against

***"The proof of Honesty lies in its practice."***

which he gets the loan, and complete several other papers formalities. Given his level of education, he is fleeced at every step and the disbursing officials demand their cut in advance. Millions of revenue cases are pending in the tehsil courts all over the country. At every stage the villager has to bribe the court and the Reader to make any headway.

As a matter of routine all vendors, hawkers artisans and traders have to bribe petty police officials for the privilege of being left alone. Any property dispute, theft, drunken brawl or fracas in the village provides the police with its regular source of 'balai amdani' (extra income). Writing of an FIR, its wording, granting of bail use of third degree methods, handcuffing the accused, putting up of challans, framing of chargers, production

and tutoring of bogus witnesses, provide lucrative openings for graft especially when most persons are ignorant of law and their basic rights.

**C) CORRUPTION IS UNECONOMIC- It slows down development:-** It is actually eating into the roots of the economy of India. It retards economic development. The damage that is caused to the economy of the country was also highlighted by a study made recently by the PHD Chamber of Commerce reported in the Economic Times of 4.9.2001. The report is reproduced below:

According to a study by PHD Chamber of Commerce and Industry, investment would increase by 2.9 per cent of GDP and GDP growth by 1.3 per cent if corruption index improves by one standard deviation or around 15 per cent. Implication is that India is losing at least Rs.63,800 crore worth of additional investment per annum, roughly three times the foreign direct investment (FDI) we are attracting now and Rs.28,600 crore of consequent national income per annum.

The unaccounted money in India is estimated to be in the range of Rs.350 to 700 thousand crore more than combined revenue of the Centre and the state government in the last fiscal.

A survey of exports by Exim Bank found that 64 per cent of interviewed face major problems with customs clearance processes and with port authorities. Exporters spend 1-15 per cent of export revenue to grease the corruption machinery. The international level evidence is stark.

*“Knowledge without integrity is Dangerous and Dreadful. “*

-- SAMUEL HOHNSON

### **1) Corruption diverts resources**

The resources from the Government and Private Sector investment in development, and from provisions for people's welfare e.g. in education, health, housing etc. to fund individual extravagance and investment overseas. It goes into the pockets of the non deserving [Here the trainer may give a case study Fodder Scam to the participants]. As the resources allocated for poverty relief get diverted to those who make corrupt payments corruption in a way increases poverty among the masses.

**2) Corruption reduces income of the state** from tax and customs dues, an economic cost estimated for some countries at 50%. Governments lose more than corrupt officials gain. You may avoid \$2,000 tax or duty with a \$100 bribe.

There are about four lakh registered companies in India. Forty per cent of them do not file any income tax return. In the top bracket there are nearly thirteen hundred concerns, which did not pay any tax till 1995-96 as they were treated as 'zero tax' companies. Indian banks carry a burden of forty thousand crore rupees as bad and doubtful debts, and practically the entire sum has been advanced as loans to the corporate sector. Despite all the noise made about the government pampering the public at the cost of the private sector, till 1990, seventy four per cent of the advances made by the government financial institutions went to the latter.

Income tax is meant not only to raise resources for the state, it is also supposed to reduce income disparities by 'soaking of rich'. How effectively does the income tax regime serve these twin objectives? Only 1.2 per cent of the Indians are assessed to income tax, and just 1 per cent of these 1.2 per cent declare an income of over Rs.10 lakh per year. It is this minuscule minority of businessmen, which is sought to be 'soaked' by the tax collectors. How far have they succeeded in their pursuit?

Between 1961-62 and 1984-85 the rate of minimum tax increased thirty three times (from 0.3 to 10 per cent), and at its maximum it stood at 97.5 per cent in 1972-73. Yet the total tax collection has remained static at 2-3 per cent of the GDP during the last fifty years. Much more significant is the fact that though the number of the rich and super rich has gone up exponentially since Independence, the percentage of tax collected from them as a proportion of the total income tax revenue has declined steeply over the years. For instance, in 1932-33 the tax collected from seven lakh top assesses amounted to 25.5 per cent of the non-

***“When Vigilance Awareness comes Can the end of Corruption be far behind.”***

agricultural national income. It declined steadily over the next sixty years and stood at 2.9 per cent in 1992-93. To put it differently, whereas 24,500 assesses in the highest income bracket filed income tax returns in 1938-39, their number has shrunk to 5,735 by 1993-94. All income figures have been adjusted for inflation. Thus the number of the super rich has contracted to one fourth since independence!

What do these figures signify? Several income tax experts argue that this shows that increase in the rates leads to decline of tax revenue. But the facts do not bear this out. Though the highest incidence of the tax ranged from 20 per cent in the sixties to 97.5 per cent in 1972-73, and stood at 40 per cent in 1996-97, the tax collection has remained at 2-3 per cent of the GDP during this entire period. The real reason for this phenomenon is that the rich resort to heavy tax evasion and, encouraged by the lax and corrupt tax regime, this evasion has increased enormously over the tax years. Otherwise there is no reason as to why the number of tax returns in the highest income bracket should have

progressively declined despite the actual number of the super rich having sky rocketed over this period.

In India also most of the top thirteen hundred companies pay almost no tax as they claim the privilege of being 'zero tax' companies. This is managed under various types of development rebates, depreciation entitlement, and export incentives etc., given to them. It was only in the 1996-97 budget that Minimum Alternative Tax of 10 per cent was levied on these companies, and even that has been almost withdrawn in the 1997-98 budget.

Thus we have a situation where, on the one hand the governments are incurring ever-higher liabilities owing to mounting defence outlays, welfare programmes, debt burdens and the like. On the other the corporate sector that has become the real accumulator of capital, is contributing less and less to the state exchequer. This situation has arisen owing to the readiness of the governments to give the big companies one concession after the other, and their reluctance to squeeze the fat cats. Whereas one consideration for this attitude is the misconceived notion that it is the best recipe for growth, another reason is the extent to which these companies have been able to corrupt the political class and top bureaucracy. As a result of these developments the governments have become increasingly impoverished, whereas the corporate profits are constantly soaring.

This has produced two far-reaching consequences. One, owing to the paucity of funds, the governments is handing over the creation and maintenance of their country's infrastructure to private concerns. Roads, railways, communications, air

*"Even when there is no law there is conscience - PUBLICIUS SYRUS"*

services, power generation and distribution etc., are being entrusted to big industrial houses. In India also we are joining the league of developed countries in this regard. This relinquishing of state control over the infrastructure is a fearful prospect for a country's sovereignty. Two, the developing countries are groaning under the steadily mounting debt burden. Some of them are not even generating enough resources to meet their debt liabilities. However some people view it as a welcome measure like in the electricity sector in Delhi

**3. Corruption increases costs** of contracts, by more than the value of the bribes. Companies need to increase prices to cover the cost of bribes they pay. But bribe remove the constraints of competition enabling companies to make greater profits. It is reported that bribes of 2% have raised costs by 15%.

**4. Corruption lowers quality with** bribes enabling companies to avoid proper supervision of their work and to give poor value for money. To begin with, the professions of education, at least at the primary and middle school levels, ranks very low as a career.

In the countrywide parents aspire for their children to get into the revenue, police and other 'prestigious' and money making services. It is only the left behinds who become teachers. These persons have mostly a poor academic record and little aptitude for teaching. And it is these luckless hacks that are supposed to shape the minds and character of the children living in the villages and city slums. And what are the working conditions in these schools? According to an official report:

Where primary schools exist, forty per cent have no pucca buildings, 39.72 per cent have no black boards, and 59.50 per cent no drinking water. Thirty five per cent schools have a single teacher to teach three or four classes Many schools run without a teacher! for varying periods of time and some teachers are not above subcontracting teaching work to others.

In a survey conducted by the UP government it was found that five thousand teachers were not taking classes as they were doing other jobs. When two thousand of these teachers were suspended, there was big protest from their association as if their fundamental right had been violated.

It is not uncommon that a teacher makes bogus entries in the attendance register and students are promoted from one class to the next without passing any test. According to the same official report nearly seventy seven per cent of the students drop out by the time they reach middle school. No wonder, many of them lapse into illiteracy after leaving school. Though officially our literacy rate stands

***“The Honest need no props. The corrupt need accomplices.”***

at fifty two per cent in reality it is much lower. This deplorable state of literacy is the most unpardonable fraud that India's ruling classes have played upon the masses. And in view of their tall claims of deep concern for the people's welfare this betrayal amounts to the worst form of moral corruption.

There is also widespread financial corruption in schools and colleges. Teachers take bribes to leak question papers, arrange for cheating during examinations force students to engage them as their tutors replace answer books, award unmerited high marks all for a consideration. The impact of such practices by their mentors on the pupils needs no elaboration. Conditions at the university level are equally deplorable. Teaching standards have steadily declined and corrupt practices spread up to the vice chancellor's level. Universities of Allahabad, Benaras, Patna, Madras, Bombay, Annamalai, Baroda and Aligarh, among others, boasted of high standards and fine traditions at one time. Now they are plagued by intrigue, nepotism, factionalism and corruption. All this has come about when university teaching is no longer an under paid profession as the UGC has brought the pay scales of teachers at par with the Class I services.

**5. Corruption distorts policies-** decisions about investment and development are influenced more by expected individual gain than society's needs.

**6. Corruption reduces investment-** The effect of perceived corruption has been described in a recent development report (World Bank, 1997). High levels of bribes discourage investment, low predictability about whether bribes will achieve their purpose strengthens that discouragement. Cases like Bofors are a living example. Example of Modi Zeros.

**7. Corruption subverts companies and NGOs** – Those who pay bribes are more likely to take bribes and cheat their employer. Company cultures become corrupted. An illustration example of such a phenomenon is the story given below.

### **Cop Bribes Cop**

An ordinary citizen bribing a cop is not news, but a cop bribing a cop still is. In Calcutta, the traffic constable popping his hand into a truck driver's cabin for his hafta is as regular a sight as the sunrise, the hawkers and shop owners in many areas pay their tola to the local thana as matter of obligation. These rights are jealously guarded by a force. Once a former minister of the Left Front Government caught a traffic constable red handed and took him to the police headquarters to which the influential policemen's union reacted angrily. A sub

*“Power Corrupts the few while weakness corrupts the many” – ERIC HOFFER*

inspector of a south Calcutta thana was driving a scooter the other night, with his son on the pillion, apparently to a hospital in north Calcutta. Neither was wearing the mandatory helmet. Two constables stopped them and demanded Rs.250. The sub inspector, who was not in uniform, revealed his identity, but had no licence or other papers to show. The constables indignity told him that every scooterist without a helmet claimed to be a policeman and it would not work. Either he paid up, or else. The sub inspector did as ordered, but then complained to the local thana. The deputy commissioner of the division has promised to look into when a sub inspector has to cough up cash to a couple constables to secure safe passage, it is undeniably a cause for concern.

### **D) CORRUPTION IS UNSAFE – it puts people's lives at risk**

#### **Adulteration**

As if what has been stated so far about the alarming growth of corruption was not disturbing enough, came the news in August, 1998 of an extremely heinous crime – the deliberate adulteration of the widely used cooking medium – mustard oil. The business

engaged in milling mustard seeds found that the available supply of these seeds would not produce enough mustard oil for meeting the demand in the market. Because of the shortage of supplies, the price of mustard oil in the market had shot up. In order to make a killing in monetary terms, oil sellers decided to get an increased supply by mixing poisonous seeds with mustard seed, milling them together. The end product still looked like pure mustard oil. The lure of money had so blinded them that they put the new amalgam on the market as normal mustard oil. Of those who used this mixed oil, dozens died and hundred fell dangerously ill. This diabolical crime was, in effect, no different from pre-mediated murder and the guilty deserved to be punished ruthlessly.

This example shows how gravely the minds of some people have got corrupted. And this is not the only example of dangerous adulteration. Spurious medicines with fake labels have been discovered in some shops. Where will all this lead? The answer is obvious. Once the nation breaks away from ethical conduct, the devil in human beings takes over and there is then no depth to which some people will not descend.

**Corruption makes regulations ineffective-** People and companies evade requirements for public health and safety, disregarded building regulations and avoid the penalties for environmental pollution, sometimes with disastrous consequences.

*"You shall not take bribe for a bribe Blinds the eyes of the  
Wise and Subverts the cause of the Righteous" --- BIBLE*

**Corruption escalates.** As some people seize the opportunity to demand more money, others need more to pay increasing bribes.

**Corruption increases criminality.** Criminals have money. Officials or judges who take bribes strengthen the hold of criminal groups on society. A corrupt state becomes a haven for illegal arms deals and drug running.

**Corruption breeds revolution.** People get angry when bribes enable others to jump the queue or when top people become obscenely rich from suspected corruption or when corruption is thought to help unpopular politicians retain their hold on power.

**Corruption is a global threat.** Money laundering, drug running or smuggling weapons for terrorism in one country puts at risk people and institutions in all countries.

*"Corruption anywhere threatens everybody everywhere"*

#### **E) Effects on our value system**

On 15 August 1997 the President of India K.R. Narayanan, made, inter alia, the following observations in his address to the nation on the occasion of the golden jubilee celebrations of India's Independence.

While I appeal to all the people of India to demonstrate such unity and faith, in this fiftieth year of our independence, I am painfully aware of the deterioration that has taken place in our country and in our society in recent times. The traditional cultural and spiritual values, which have been the mainstay of our civilization, seem to be losing their grip over society and politics. Sheer opportunism and value-less power politics have taken over the place of principles and idealism that had been the hallmark of our social and political life. Violence had increased in the relationship between people, groups and parties. Social evils like ill treatment of women and the weaker sections like the Scheduled Castes, including atrocities against them, are on the increase marring the fair name of India in the world. And corruption is corroding the vitals of our politics and our society.

A corrupt polity is subversive of ideology and egalitarian goals. The first requirement of ideological commitment is honesty of purpose and steadfast pursuit

*"The corrupt have many masters. The honest serve none"*

of policy objectives. But corrupt politicians have to speak two voices: they compromise national interest by playing the game of powerful bribe-givers while paying lip service to the country's good. Also, a corrupt regime primarily serves the interests of the moneybags; under it the rich becomes richer and the poor are left high and dry. With the rise of corruption in India ideology has taken the back seat, pursuit of power has become the sole objective of all the political activity, and income disparities have increased.

A glaring example of deterioration is evident in the corruption existing at the University level as mentioned above. University corruption can be viewed from various angles. We may start at the top the appointment of the vice chancellors (VCs). The governor of a state being the chancellor is the appointing authority of all VCs in the state. As governors these days are mostly discredited and discarded politicians, they do what they have done all their lives. Consequently, except in the metropolitan cities, caste, kinship, nepotism and corruption weigh heavily with them in the selection of vice chancellors. And how do some of the VCs behave? A couple of examples would illustrate the point.

A newly appointed vice chancellor in UP readmitted a number of students who had been expelled by his predecessor. This was done to create his own support base of heavyweights. One such student, who had tried to set fire to a university buildings, was appointed as a lecturer. He was also guilty of submitting two different birth certificates. When this episode became a public scandal, the Executive Council of the university started

an enquiry. But the VC preempted this move by confirming the culprit under his emergency powers.

In another university beset with student unrest, a vice chancellor was not getting much help from the local police. So he raised his own goon brigade by appointing student rowdies on the security staff to assert his authority. To administer the universities with the help of criminal elements, writes Dr. Amrik Singh, an eminent educationist, is thus becoming a fairly widespread practice.

The value free functional theory of corruption makes no allowance for the state as a repository of cultural values, public morality, social justice, communal harmony and law and order. And these areas are not only of the greatest concern to humane polity; they are also the hardest hit by corruption.

In the pre-independence era Indian society remained more or less cohesive and peoples of all communities, consciously or unconsciously lived a life which could

*"The litmus test of honesty is whether you can resist  
temptation when everything is at stake"*

be said to be generally following an unwritten code of values, which included among other things seeking one's goals through the right means. The admonishing of elders in households was deterrents for many irregularities and was promptly heeded. Those deliberately departing from the norms sanctioned by the traditional wisdom were not accepted and those whose conduct and character were exemplary were accorded great respect and honour. Mahatma Gandhi was thus the hero of many and inspired many lives through his leadership. When India attained independence the country was beset with the selfless leaders of the freedom movement who were still active in political sphere, they were the ideals of the contemporary generation. They were exemplary in holding the ethics and influence the society. However, over the years as the generation thinned out the noble ideals began to fade. People in authority began seeking personal gain without much regard to the means. A perpetual decline in the value system has set in since then. Over the years gradually there has been acceleration in the fall and decline in the value system. In fact in the last couple of decades or so there has been a remarkable transformation. Barring a few all of us are busy realizing our own interests without caring about whether the means are fair or foul. The middle class values are declining and are weakening the traditional moral backbone of the society. The middle class is being blinded by the glitter of consumerism and its social values are in a state of utter confusion. The rising prices of household necessities and skyrocketing cost of housing, children's education, medical aid, transport and entertainment are forcing people to earn more money somehow or even anyhow. People are becoming less and less restrained, unscrupulous lowering the degrees of decency and integrity. Social pressures are resulting in loosening of family ties and personal relationships. The role models of the bygone years in the form

of elders are disappearing. Impelling self-interests have replaced trustworthiness. The quality of upbringing of children as well as the level of discipline in families is waning. In the urban areas purchasing admissions to educational institutions is in vogue. What values the children even at the pre-school level are being exposed to. . A growing disrespect for law can be observed along with the number of 'strong arm' men and thugs. Caste warfare by armed gangs in many areas of the country is common knowledge. The law enforcing agencies are easily susceptible to monetary temptations. An insatiable lust for personal gain has become the driving force for the leadership and the bureaucracy. In state controlled areas inefficiency has become the watchword.

Values are formed by a series of processes of interaction of individual with his environment. As we are born, we are subject to values and concepts of our parents, teachers and colleagues. Peer pressure probably these days is more

***“The honest have value. The corrupt have a price.”***

important especially since the joint family is failing especially in urban areas. Religion is also a determinant of our value system corruption has politicized the religious groups and combined with lack of parental guidance a gradual erosion of values is discernible.

N Vittal, CVC in an overview has quoted that “In the ultimate analysis values adopted and practiced by an individual depend on the following:

- a) Enlightened self-interest: After all everyone wants to survive and thrive. Values, which are perceived to be helpful in this effort, will be accepted.
- b) Desire for improvement: There is an inherent desire for improvement in everyone's heart.. This is the root of jealousy, ambition or keeping up with the Jones'. Role models help to ingrain values because of this craving for rising towards an ideal.
- c) A variation of (b) is the hierarchy of needs of Abraham Maslow. We adopt values depending upon where we are in the hierarchy of needs be it physical needs, safety/security needs, self-actualization or ego needs.

When we analyze the dynamics of values therefore we should also not forget that there is always a potential for change in the human behaviour. Probably this explains why suddenly people change their behaviour. It is well known that every sinner has a future and every saint has a past. I think that this shows that when it comes to values there could be dramatic changes depending upon the circumstances. Therefore we come across officers who towards the end of their career when they are under sever financial strain due to social requirements like dowry for their daughters etc. become corrupt. It is in such circumstances, I think a person's mettle is tested.

This is where the second aspect of sustaining of values comes. While the individual imbibes the values, they can be sustained only if the atmosphere is also conducive for certain values. Unfortunately today we find a dissonance between the social values as accepted by the society and the ideals for which everybody pays lip service at the individual level. For instance we have a society, which honours only money power, knowledge and individual achievements are not honoured. I was once speaking to Prof, Chao of South Korea who built the Pohang steel plant. He said that in South Korea a Professor is more honoured than many others in the society and as a result Koreans had no difficulty in getting non-resident Koreans to come back and help in building the Pohang steel plant or other major projects in

***“The corrupt have wealth. The honest have worth.”***

Korea. Perhaps there is something in the Confucian ethos which gives respect to a learned person. We also have in our society and our Hindu ethos the concept that swadeshe pujayate raja vidwan sarvatre pujyate but when in practice it is money power and clout that matters. Criminalisation of our politics and society is the direct consequence of this erosion of values.

The cricketers were great heroes for many particularly the youth in our country. The match fixing scam I think has shown that these heroes had also feet of clay. The societal values in a way are the result of the general consensus. Even where a general consensus in terms of traditions and law lays down certain values depending upon the implementation of the laws and traditions ultimately the values prevail. We therefore find in this conflict between the de jure and de facto position in values when it comes to social values de facto ultimately prevails.”

Corruption is causing a lot of bad governance in our country. There is a sheer erosion of values in the implementation of law. For example the important value that there should be fairness and equal treatment of all citizens, which has been enshrined in the constitution among the directive principles of state policy no longer holds any validity. Those who have committed great scams are still holding positions of power and those who have dared to expose the misdoings are suffering at the hands of power holders. It is also exemplified by the fact that in our country in criminal courts, the percentage of conviction is hardly 6%. Again according to N Vittal in any society if we consider the number of people with integrity, we are bound to find a bell curve. 10% will be honest whatever we do and 10% will be dishonest and the remaining 80% depend on the system. The system means punishing those who violate the law or who are indulging in anti social activities. There is a tremendous decline in the values and ethics in administration.

**F) Corruption is damaging the image of the country**

India ranks as one of the most corrupt nations in the world, ranking 72 out of 91 in the Corruption Perception Index Of Transparency International a Berlin based NGO. The full index may be seen below:

*"To make your children capable of honesty is the beginning of education"*  
**--- JOHN RUSKIN**

### CPI 2001 Ranking by Transparency International

1.	Finland	24	Belgium	47	Bulgaria	70	Venezuela
2.	Denmark	25	Portugal	48	Croatia	71	Honduras
3.	New Zealand	26	Botswana	49	Czech Republic	72	INDIA
4.	Iceland	27	Taiwan	50	Colombia	73	Kazakhstan
5.	Singapore	28	Estonia	51	Mexico	74	Uzbekistan
6.	Sweden	29	Italy	52	Panama	75	Vietnam
7.	Canada	30	Namibia	53	Slovak Republic	76	Zambia
8.	Netherlands	31	Hungary	54	Egypt	77	Cote-d'Ivoire
9.	Luxembourg	32	Trinidad & Tobago	55	El Salvador	78	Nicaragua
10.	Norway	33	Tunisia	56	Turkey	79	Ecuador
11.	Australia	34	Slovenia	57	Argentina	80	Pakistan
12.	Switzerland	35	Uruguay	58	China	81	Russia
13.	United Kingdom	36	Malaysia	59	Ghana	82	Tanzania
14.	Hong Kong	37	Jordan	60	Latvia	83	Ukraine
15.	Austria	38	Lithuania	61	Malawi	84	Azerbaijan
16.	Israel	39	South Africa	62	Thailand	85	Bolivia
17.	USA	40	Costa Rica	63	Dominican Rep.	86	Cameroon
18.	Chile	41	Mauritius	64	Moldova	87	Kenya
19.	Ireland	42	Greece	65	Guatemala	88	Indonesia
20.	Germany	43	South Korea	66	Phillippines	89	Uganda
21.	Japan	44	Peru	67	Senegal	90	Nigeria
22.	Spain	45	Poland	68	Zimbabwe	91	Bangladesh
23.	France	46	Brazil	69	Romania		

**As has been pointed out by study made by the PHD Chamber of Commerce reported in the Economic Times of 4.9.2001.and discussed above. The UNDP has listed India to rank at 135 out of 175 countries when it comes to human development. The World Economic Forum, Geneva has rated India 50 out of 53 when it comes to global competitiveness. All these indices mean that we have to make special efforts when it comes to human development and we have also to become more competitive, if we want to be effective in the highly integrated global market which is getting a further boost due to activities of the World Trade Organization (WTO) and the continuously falling barriers to trade. The**

**“An honest man is the noblest word of God”. –ALEXANDER POPE**

**OECD countries see corruption as an increasing threat to global trade and have come together with the anti-bribery convention. Also the collapse of the Southeast Asian countries has indicated that in the long run corruption indeed may cause the fall of empires.**

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Mahatma Gandhi with prophetic insight had observed on the growing phenomenon of corruption as follows:

*Corruption will be out one day, however much one may try to conceal it; and the public can, as it is its right and duty, in every case of justifiable suspicion, call its servants to strict account, dismiss them, sue them in a law court, or appoint an arbitrator or inspector to scrutinize their conduct, as it likes.*

*It seems the people have to be in the forefront of the fight against corruption, communalism, casteism and criminalisation of politics and life in the country. A social movement or a widespread national movement is needed to cleanse the system. Such a social movement need not be merely negative but for positive purposes. Illiteracy, for example, has become a disgrace and the greatest obstacle against the progress of the country.*

*Cannot we launch a mass movement for literacy involving the people, the students, the educated unemployed, the teachers, public servants and the private enterprises? In the same way social movements are required for fighting poverty, population growth and environmental degradation. In all this I call for a new partnership between the government and the people.*

***“Do not do what you would undo if caught.” --- LEAH ARENDT***

## FACTORS AFFECTING PREVALANCE OF CORRUPTION IN INDIA.

### 1. HISTORICAL FACTORS:-

Corruption has existed in India since ancient period. Various old texts contain anecdotes of the contemporary life or advice for the ruler on statecraft, which indicates corruption, existed in various forms, and measures to check it were suggested. The Jataka tales give stories of deceitful officers engaged in robbing the Government treasury. They condemn adulteration and state that those who sold grains mixed with chaff went to hell. Kautilya's Arthashastra, one of the oldest treaties on statecraft, prescribes a series of punishments for corrupt officials whose activities may bring a king to dispute. The emperor Asoka's edicts on the rule of dhamma, issued over the period 265-238 BC, enjoin officers to refrain from harassing the citizenry. In the Muslim period following the establishment of the Slave Dynasty, there is more recorded evidence of coercion of citizens, a fundamental precursor of corruption. Shortchanging of customers by unscrupulous traders was evidently commonplace, which led various rulers to fix the prices of essential commodities. Given the fate of all similar attempts in post Independence India, it can be safely concluded that such measures must have been preceded and followed by large scale hoarding of goods and their sale at black market prices, with the connivance of officials entrusted with the job of preventing these practices. It is well known that during the Mughal era the mansabdari system resulted in all manner of leakage and non-compliance. Local chieftains were under obligation to contribute a certain number of soldiers to the imperial army on demand, in exchange for which they received revenue collection rights over substantial tracts. More often than not, the mansabdars cheated shortchanging the emperor when it came to supplying the requisite number of soldiers. The huge and unwieldy bureaucracy established by the Mughals from Akbar onwards was also prone to a great deal of corruption and extortion.

The early years of the East India Company's rule were marked by rampant and unbridled corruption, which flowed right from the top. The celebrated impeachment of Warren Hastings the second governor general after Robert Clive, hardly merits elaboration. Never before or after Hastings has the supreme authority of any regime been accused of forgery and perjury (in the case of Raja Chait Singh of Banaras) deceit and brazen extortion for the purpose of acquiring personal wealth (in the case of the Begums of Oudh). Hastings may have been an extreme case, but Robert Clive himself was no mean accumulator of personal fortune even as he laid the foundation of nearly two centuries of British rule of India. With such examples of greed and corruption at the highest levels, it was

***“:Bright future awaits the honest. Shady past haunts the corrupt.”***

only to be expected that the Company's petty officials (who in any case were drawn from the ranks of the poor and middle classes of Britain) came to India with almost the sole objective of swiftly amassing a fortune, which axiomatically meant taking recourse to financial irregularities. As Lord Macaulay succinctly remarked, "The business of a servant of the Company was simply to wring out of the natives a hundred or two hundred pound as speedily as possible, so that he may return home before his constitution has suffered from the heat, to marry a peer's daughter, buy rotten boroughs in Cornwall and give balls in St. James's Square.

This reference to the smash and grab culture of the early Company years reinforces the fact that there exists an innately corruption prone mindset in India which asserts itself hegemonically in different historical periods. In this context, it is worth noting that there is a clear correlation between the decline of central authority and the growth of corruption.

For example, all historical accounts suggest that the corruption among junior officials was at its peak during the post Aurangzeb century of declining Mughal power. This trend continued and intensified during the initial decades of the East India Company's rule. The gradual consolidation of British authority from the time of Lord William Bentinck led to a noticeable contraction of the tentacle of corruption, a process aided by the establishment of an honest and competent civil service, whose members were drawn largely from the British aristocracy and gentry, on merit, through a rigorous examination system. The transition to direct rule by the Crown and the consequent accountability of the British Indian authorities to the British Parliament in the aftermath of the 1857 uprising further streamlined the administration, though petty corruption could never be entirely eliminated.

The ideological inspiration provided by the freedom movement and the common resolve to create a unified and virtuous national character ensured that corruption remained within manageable limits during the first two decades after Independence. Jeep scandal involving V.K. Krishna Menon, then India's High Commissioner in London surfaced during Nehru's time. However, not much cognizance was taken or enquiry by a Court was not ordered. Such probes would have enabled the government to realize the need to introduce some transparency in the procedures of purchases in early 1950's. The problem of corruption was assuming serious proportions. In 1961 when Shri Lal Bahadur Shastri became the Home Minister he realized the problem and recommended to set up a high level

***"The wealth earned through pious means flourishes. Those who earn through dishonest means are destroyed". – ATHARVA VEDA***

Committee to study in depth the problem of corruption. Shastri appointed in 1962 the K. Santhanam Committee. The Committee examined a large number of witnesses including 2 central Cabinet ministers, 2 Chief Ministers, 2 State Ministers, a number of Secretaries to the Government of India and other senior official. It submitted several interims and a final report in 1964. Among other things the Committee observed that *the tendency to subvert integrity in the public services instead of being isolated and aberrant is growing into an organized, well-planned racket. We recognize that while considerable success had been achieved in putting anti corruption measures on a firm footing, there is much that remains to be done. It is a matter of profound concern that in the past there has been a certain amount of complacency in dealing with the situation.*

*It was represented to us that corruption has increased to such an extent that people have started losing faith in the integrity of public administration. We have heard from all sides that corruption has, in recent years, spread even to those levels of administration from which it was conspicuously absent in the past. We wish we could confidently and without reservation assert that at the political level, ministers, legislators, party officials were free from this malady. The general impressions are unfair and exaggerated. But the very fact that such impressions are there causes damage to the social fabric. That such impressions should have come into existence in so short a time after the people of this country had given themselves a Constitution of their own is all the more depressing if it is remembered that the struggle for freedom in India was fought on a particularly high moral plane and was led by Mahatama Gandhi who personified integrity. The people of India rightly expected that, when the governance of the country passed into the hands of the disciples of the Father of the Nation who were in their own individual capacities known for high character and ability, Government of India, at the centre and states, would set up and achieve a standard of integrity second to none in the world, both in the political and administrative aspects. It has to be frankly admitted that this hope has not been realized in full measure. But it has to be noted that a good percentage of our public servants, even those who have opportunities, maintain and function in accordance with strict standards of integrity. We have to base the efforts for a thorough cleansing of our public life on this solid and hard core of honest public servants. It will be our endeavor in this report to strengthen their hands, to deal drastically with all those who have come to believe that they can corrupt and be corrupt with impunity. Before we can do this, we must face frankly all factors which have tended to corrupt our public life.*

***“The war against Corruption is the Mother of all Wars.”***

In its interim reports submitted to Shastri, the Committee discussed meticulously every term of reference and made comprehensive recommendations as regards institutional arrangements, codes of conduct, legal provisions and other related subjects for combating corruption.

Shastri ensured that as each interim report was received action was initiated expeditiously for the implementation of the Committee's recommendations. In this way numerous important decisions were taken and requisite new arrangements were established and made functional. Some of the important steps thus taken are referred to below:

1) A Central Vigilance Commission was established under a central vigilance commissioner to supervise and coordinate all vigilance work throughout the machinery of central government. The existing Special Police Establishment was reorganized, expanded and named as the Central Bureau of Investigation.

2) A Code of Conduct for ministers was formulated and placed on the Table of Lok Sabha and Rajya Sabha on 18 November 1964. This was an important step taken by Prime Minister Shastri for combating corruption in the political arena among politicians holding top level positions of power.

3) The Government Servants' Conduct Rules were revised and several new provisions were incorporated including one on which Shastri was very keen. It was Shastri's firm belief that government servants should always form their views on the basis of their own best objective and honest judgement and express them candidly in discussions or on files. On no account should they succumb to any pressure or oral instructions from their superiors but should always insist on written orders. A provision to this effect was included in the Conduct Rules with the addition that any government servant not doing so would be guilty of misconduct. This principle is clearly a sine qua non of a good civil service and of a clean and fair government administration.

Besides instituting a new machinery and promulgating new rules, codes, etc., for combating corruption, Shastri also took steps to deal with complaints of corruption or misconduct against several leading figures of the Congress Party holding public offices such as those of cabinet minister and chief minister and he did so without any fanfare but with unyielding resoluteness.

***"On this earth there is enough for everyone's need but not for their greed".***  
**M.K.GANDHI**

Values, which enabled the leash to be kept tight, especially the social stigma attached to corruption in high places, were progressively eroded from the early 1970s. The emergency, while spurring flagrant disregard for rules at the top did, however, act as a deterrent to petty corruption because of the widespread fear psychosis generated by the quasi police state.

But there is no doubt that the British gave India a fairly clean administration, and the level of corruption during their rule was lower than at any other time in India's recorded history. To some extent what helped matters was their policy of laissez faire. Beyond revenue collection and maintenance of law and order, there were few points at which the colonial administration touched the lives of the people, and this naturally curtailed the opportunities for graft. One only has to see how corruption shot up during the Second World War, when a lot of contracts had to be given for supply of goods, and extensive financial powers were delegated to ensure quick decisions.

Whereas the capitalist production relations determine the dominant social structures within the nexus between various beneficiaries of corruption is formed, there are also several secondary structures, which emerge in the process. The two most important derived structures that of administration and law. The greatest contribution of colonial rule to India was the creation of elaborate administrative and legal structures, which not only gave stability to this regime but also legitimized it to some extent.

On the administrative side the British established comprehensive systems and furnished them with prestige and power. This was necessary in order to ensure stability by manifest power of the state in the absence of a popular base. Further, owing to distrust of the native employees, as well as to make government actions more predictable and rational detailed rules and regulations were framed for the conduct of official business. Similarly, in the legal sphere numerous laws were passed to lend credibility to the administration of justice. It was these measures, and their fair implementation, which helped in establishing the rule of law the crowning glory of the colonial regime.

Administrative and legal systems are the sinews of economic and political structures. The systems that the British created served their objectives remarkably well. But after Independence the economic and political goals of the state changed completely. Besides switching over to a democratic form of government based on adult franchise, the country also decided to become a welfare

***“Corruption: The enemy within us and around.”***

state, introduced planning, undertook the creation of a massive public sector, and pursued the goal of economic growth with social justice. It was an enormous agenda for a newly liberated country. But unfortunately, it was prepared without creating suitable instrumentalities for its realization. The only tool available to Nehru was the bureaucracy left behind by the British. And as he was in a hurry, and no blueprint for an alternative system was readily available, he decided to use the existing apparatus as a delivery system for his development and welfare programmes.

As history has shown, and Nehru he realized later, this was one of the gravest errors made by him. The British had, no doubt, created a very efficient system. But it was essentially status quo in nature; its primary objective was to preserve the exploitative colonial rule. It was, thus, in sharp conflict with the values of a democratic polity dedicated to the objectives of rapid change, fast economic growth and social equity.

But the die was cast and the administrative apparatus multiplied exponentially with the expansion of the state's functions. New departments and ministries were created by the dozen and thousands of raw hands recruited in a hurry. The countryside, which had been earlier exposed to the oppressive presence of petty revenue and police officials only, started crawling with swarms of Community Development workers and other do-gooders.

Unchecked proliferation of bureaucracy and its functions made the state omnipresent and the citizen was required to deal with it from cradle to grave. This project of growth with equity suffered from two serious snags. One, the government just did not have the financial and human resources to sustain such a huge enterprise. Two, no attempt was made to change and rationalize the plethora of old rules and procedures so as to simplify, streamline and demystify the conduct of government functioning. Thus, when the demand for the state's services increased several fold, the government machinery, designed to cope with the limited needs of the slow moving, leisurely colonial times, was found wholly inadequate to meet the new pressures. Added to this there was the morbid obsession with official secrecy, as a result of which the people had no access to the government's decision-making processes.

When Indira Gandhi took over India stood at the proverbial crossroads of history. Indira Gandhi have known that the economic model for development which she had decided upon, involving enlarged State ownership as well as greater

***“Allah Curses the giver of Bribes and the Receiver of Bribes  
and the person who paves the way for both parties.”***

***---PROPHET MOHAMMED***

governmental control over the private sector through the mechanism of permits, licenses and quotas, would open up huge opportunities for corruption unless firm preventive action was taken by the government of the day. As mentioned earlier, Mahatma Gandhi and Dr. Radhakrishnan had given clear warnings about the pernicious menace of corruption. The Santhanam Committee too had reported after a detailed and thorough study, that corruption even among the political class had already grown to disturbing levels and had recommended specific measures, both legal and administrative for combating this menace. In this context, it was Indira Gandhi's duty as the new prime minister to continue with due diligence the implementation of the recommendations of the Santhanam Committee which had already been initiated by her predecessor with a view to curbing corruption and to promoting probity as well as ethics in governmental administration.

Prime Minister Indira Gandhi did not truly heed the warnings of Mahatma Gandhi and Dr. Radhakrishnan about the demon of corruption. In fact, she dismissed this problem by the following enigmatic remark: 'Corruption is a global phenomenon'.

According to S.S. Gill, the Commerce Minister in Indira Gandhi's government was entrusted with the task of raising the requisite funds by using his enormous powers and this is how he proceeded to accomplish his task: L.N. Mishra, who was appointed independent Minister of State for Commerce made full use of the 'license quota permit raj' and attached a price tag to every license, permit or clearance that he issued. He collected huge amounts of money, and disbursed it like a king. As a matter of routine sealed envelopes were dispatched from his house to a variety of beneficiaries who included not only politicians, but also journalists and all sorts of touts. Of course, Mishra was only a puppet and the master strategist pulled the strings.

When Mr. Rajiv Gandhi became prime minister he had a totally untainted reputation for integrity. He was completely untrammelled by any considerations of caste, creed, community, religion or language and he was a genuine adherent of secularism in its truest sense. Upon his joining this august office a new era in Indian politics seemed to be in the offing. He tried to rid the congress party of the sycophants and people with reputations of being corrupt. He also had the dream of promoting and accelerating the economic development of India on the lines of 'Japan Incorporated'.

***"Men are more often bribed by their loyalties & ambitions than money."***  
**ROBERT JACKSON**

The strongest affirmation of his resolve to cleanse the Congress Party came from his famous speech at the Congress Centenary Celebrations at Bombay on 28 December 1985, where, in a truly Savonarolian style he thundered:

'Millions of ordinary Congress workers throughout the country are full of enthusiasm for the Congress policies and programmes. But they are handicapped, for on their backs ride the brokers of powers and influence, who dispense patronage to convert a mass movement into a feudal oligarchy ... we obey no discipline, display no sense of social awareness, show no concern for public weal. Corruption is not only tolerated but considered a hallmark of leadership.'

The speech stunned the old guard, exhilarated the nation, and raised high hopes of sweeping reforms. But, as the coming days were to prove, nothing of the sort happened. For one thing Rajiv was not political creature. As a politician he was naïve and gullible. Only a condemnation of the prevailing procedures and ways was not enough, firm action to

eradicate the menace was also needed. Rajiv did not have the sort of grit and determination to push through his cleansing drive in the teeth of vested interests.

It is a great irony that a man who initially emerged as the Mr. Clean of India ended up as a PM whose name became inextricably linked to corruption and clumsy cover up operations like the Fairfax, HBJ Pipeline, HDW submarine deal, Bofors Scandal etc.

The era of a stable one party rule came to an end when the Congress failed to win a majority in the 1989 Lok Sabha poll. Then followed two short spells of coalition governments headed by V.P. Singh and Chandra Shekhar, and the mid term poll of May-June 1991. The Congress again failed to win an absolute majority and its charismatic leader, Rajiv Gandhi was assassinated when the elections were still in progress.

Maimed and dispirited, the Congress cobbled a majority with outside help and elected the low profile P.V. Narasimha Rao as its leader. Though his was supposed to be a stop gap arrangement as Rao was not even given a parliamentary ticket owing to poor health, he soon consolidated his position and emerged in the role of a sagacious elder. Despite all the scandals that later plagued his tenure, history may still judge him kindly. It was during his regime that India opted for a

***“Behind every corrupt man there is a greedy family.”***

programme of systematic liberalization, terrorism in Punjab was eliminated, and groundwork for a popular government in Kashmir laid. As to the dozen odd scandals that erupted during his period in most cases he was more of a mute witness than an active participant. But just as he deserves credit for liberalization and Punjab, so too he cannot escape the blame for these scams.

Two features of Narasimha Rao's tenure merit special attention. First, it is wrong to assume that in a cabinet a prime minister is first among equals. It is he who selects his team, assigns portfolios to his ministers, and keeps a watch on their performance. In every sense he has to function as an effective leader of his team and keep its wayward members on a tight leash. But Rao extended his policy of masterly inactivity to the functioning of his cabinet also. Every minister under him was on his own trip, accountable to none for his actions, indulging in the grossest violation of norms and procedures, without any check on his misdeeds. A large number of his ministers participated in unbridled corruption and he refused to take any note of it. No wonder that his regime is marked by a series of mega scams the like of which had never been seen before.

Secondly, this period also exposed the utter ineffectiveness and servility of official investigating agencies. Without exception all big scams were exposed either by

the tireless efforts of dedicated journalists or through public interest litigation. In fact in most cases the CBI tried hard to deflect the investigation and target only the small fry. The courts had to repeatedly reprimand the CBI for its deliberate slowness and biased attitude, and but for the activist role played by the Supreme Court, most of the big frauds would have never come to notice. Since then the scenario in India is dishearteningly bleak. Almost every aspect of material activity is interested with corrupt policy, bureaucracy, Police, judiciary services, Business and industry in almost all the activities.

The Supreme Court of India in a corruption case on 3.2.2000 warned that if corruption was not checked effectively at the earliest, the socio economic political system might crumble. The court added "corruption in a civilized society is a disease like cancer which, if not detected in time, is sure to render malignant the polity of the country, leading to disastrous consequences. It further said corruption is apposed to democracy and social order, being not only anti people, but aimed at and targeted against them.

***"No Legacy is as Rich as Honesty". --- WILLIAM SHAKESPEARE***

## 2) PSYCHOLOGICAL FACTORS

In India the society is family based extended into joint families and castes or biradaris. Although in urban areas the concept joint families seems to lessen yet kinship in the form of caste, belonging to the same region or linguistic community still prevails. The whole politics is based on castes. The difference in degree of development between states and communities provides a great factor for harboring corruption. The ministers or bureaucratic in high places favor their relatives and kin. Nepotism is based on deep attachment of people to their families or caste. People in high places feel that they should earn enough not only for themselves but also for their children, grand children and perhaps seven generations. Otherwise, what would people like Chairman of Punjab State Civil Service Board - Siddhu would accumulate 27 crore, which would be more than sufficient for him. The basic motive behind corruption is to account enough wealth, which would serve the future generation.

In our society the exhibitionist has an advantage. Demonstration of misuse of power, having links with the right people has come in vogue. Power is demonstrated only if it is being misused. In certain communities being as corrupt as possible and amassing as much wealth as possible is seen as a macho demonstration of "competence". It this is the attitude, those sectors of society that did not have an opportunity to share the power in the past may also rationalize that they must also be able to emulate those who had earlier

enjoyed misuse of their power and amassed wealth by rampant corruption. Thus a vicious cycle of corruption is launched where a society tolerates amassing wealth and does not question as to how that wealth is accumulated. Now days we are taking corruption on key positions as granted and welcoming the capacity for making as much money as possible from one's position.

The spreading cult of consumerism enhanced by the electronic media has the impact of creating a desire in the mind of everyone to have the best consumer goods. The ostentatious consumption and stinking rich life styles of the well to do creates jealousy among the deprived, which leads to crime and corruption or to make money by hook or crook.

Evil social practices like dowry system also promotes corruption. Another psychological development in the present society is the pressure of society for competition. Parents try that the children should get the best right from kindergarten in every school, there is a pressure of competition and commercialization of education to a great extent has taken place. Donation for

***“The proof of Honesty lies in its practice”.***

admissions to schools and colleges more so by self financing colleges more so by self-financing colleges, which demand huge donations, which are satisfied by black money.

**3) LACK OF TRANSPARENCY, OBSOLETE RULES, AND PROCEDURES**

Corruption flourishes and swells in any governance when there is lack of transparency. Delays in decision-making dilly dallying procedures go hand in hand with lack of transparency and are breeding grounds for corruption. Lack of transparency also helps the corrupt to take the most outrageous and illegal decisions. Such decisions are guided by the amounts of bribes taken by the concerned person or persons in power. It also makes the honest public servants to sit over cases and delay them during their state of indecisiveness. Lack of transparency actually means that the common man does not get to know what his rights are and how his case is being handled. At most of the places there is a lack of interface between the citizen and the government. Absence of such an interface has been advantageous to the corrupt and detrimental to the poor citizen For example one area in which common man has been harassed a lot by corruption is the municipality offices or in the electricity boards. The payment of electricity dues has been a big market for the corrupt. Even the issue and collection of bills provide great opportunities for bribe taking.

The resistance of the public servants for even an attempt at improving some convenience to the public is also to be seen to be believed. In Thiruvanthapuram an energetic Secretary (IT) took up the initiative to set up what was called FRIENDS(Fast Reliable Instantaneous Network of Delivery of Services). In the heart of Thiruvanthapuram, in

Saphalyam Complex, seven government department/organizations were brought together including the Kerala university, electricity board, the municipal corporation, transport department etc. under the FRIENDS scheme. The idea was that this center had a bank of 20 computers and was operated by different persons from the participating organizations could receive the various payments to the participating organizations. Within 48 hours, these collected funds and accounts were sent to the concerned departments. The tragedy of the whole exercise is that while the public appreciated the initiative, the Secretaries of the concerned Departments, did not go to see how the center worked. The electricity board took the stand that while electricity bill payment can be made in the center so far as regular payments are concerned, when there are delayed payments on which there is a fine, which also is pre-determined, such payments should be made only at the electricity board office! We can see the reason why such a demand is made.

***“Knowledge without integrity is Dangerous and Dreadful”.***

**-- SAMUEL HOHNSON**

Delays in official dealings have been a major source of corruption infesting the government system. I shall give a few examples from my own experience to show as to how the existing administrative structures are tailor made to this end.

In the Central Secretariat, a file originates with a lower division clerk or dealing assistant and passes through seven or some times nine levels before it reaches the table of the minister for final order. This, despite the fact that cases are dealt with according to a set rules and procedures and on the basis of established precedents, and office work is mostly of a routine and repetitive nature. This labyrinth journey of the file not only results in inordinate delays, it also diffuses accountability owing to the multiplicity of levels at which contributions are made in arriving at a decision. In any modern organization, these levels would not exceed three or four, and most routine cases would be disposed of at the first level only. If organization of the Central Secretariat is undertaken on these lines, it would reduce the staff strength by more than half and bring down establishment expenditure proportionately. More importantly, it would greatly increase efficiency and pinpoint accountability.

There is absolutely nothing common between the nature of work of the Ministries of Agriculture, Commerce, Welfare or Tourism. Yet all these ministries have identical organizations and business is conducted according to the same rules and procedures. This is like running a steel mill and a hotel with the same systems and methods. Nothing could be more irrational, or better designed to cause confusion, delays and glitches. The main reason for these anomalies is that the manual of Office Procedure defines the organizational structures and functions of officials, which is more than a century old. At

that time there were a few departments and their functions were mostly of a simple, regulatory nature. Similarly, Transaction of Business Rules, which governs the functioning of ministries, was introduced way back in 1924.

Every day countless harassed citizens run around to get some application, petition, or other document certified, attested or notarized, thus suffering great inconvenience besides wasting millions of working hours. This is a senseless exercise and its only rationale is the colonial distrust of common man. When a person submits his papers with his signature or thumb impression, he becomes legally committed to the accuracy of the contents. Then where is the need for such distrust, and to make the procedure complex?

***“When Vigilance Awareness comes Can the end of Corruption be far behind”.***

India's legal framework was designed in the middle of the nineteenth century to serve the interests of colonial administration. The Indian Penal Code, the main instrument for controlling crime and administering criminal justice, was enacted in 1860. the organization and functions of the police are governed by the Indian Police Act of 1861. The Indian Telegraph Act, which regulates the control of the airwaves and licensing of broadcasting facilities, was passed in 1885- even before the invention of the wireless. Fundamental Rules and supplementary Rules, the financial bibles for all government business, were framed in the twenties when the government's financial transactions and commitments were very simple. Yet the rules are so complex and dilatory that if the Tatas or Birlas adopt them, their operations would grind to a halt within a couple of months.

Law is the most conservative areas of public administration. At the time a law is enacted, it is at least one generation behind the times. Secondly, the British designed their legal system to strengthen a regulatory colonial administration. These laws were based on distrust of the 'natives' and a firm belief in their inability to govern themselves. Thirdly, the inspiration for these laws was the Anglo-Roman model of jurisprudence.

Laws, rules and procedures define the parameters of a government's activities and its basic philosophy. They are supposed not only to concretize the institutional framework of the Indian Constitution; they also shape the outlook of the bureaucracy that implements them. They are the repositories of the values, temper and aspirations of a developing modernizing country. The fact that India is still governed by a legal system designed by a colonial ruler in the middle of the nineteenth century means that the country is being ruled by the colonial ethos of that period. This also shows the extent to which the minds of the educated Indians have been colonized.

This 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 and the provisions of the Directive Principles of the Constitution. The focal point of the colonial

justice was the individual and protection of private property rights. On the other hand the emphasis of a welfare state is on the rights of the society and social justice. Hence, our legal system undermines the societal goals. Whereas a starving person is jailed for a minor theft, a millionaire who steals crores of public money by evading mandatory taxes is treated with kid gloves and left off with a fine. Unscrupulous businessmen and traders who extensively adulterate food items and produce spurious drugs, thus damaging the health of millions, get away

***“Even when there is no law there is conscience” – PUBLICIUS SYRUS***

with impunity. Industrialists ravage the environment by toxic wastes of their factories and still go scot-free. Even the courts have not gone beyond giving directions for the relocation of the polluting industries. In short the social dimension of law is very weak and private interest gets precedence over social good.

The existing legal system has inbuilt provisions for delays, prolonged litigation and evasion. Its provisions are ideally suited to the promotion of corruption at all levels, as graft provides the quickest immunity from delays and punitive action.

4) **BUREAUCRATIC, POLITICAL AND SOCIAL FACTORS**

Recently the Hindustan Times on 6<sup>th</sup> July 2002 reported that former minister of state for communications Sukh Ram was sentenced by a sessions court on Friday to three years rigorous imprisonment and fined Rs. 2 lakh for causing a loss of Rs. 1.66 crore to the Government while awarding a telephone contract to a private firm.

Special Judge V.K. Jain also convicted the two co-accused in the case – Runu Ghosh, a former deputy director general of the Department of Telecom, and Pataru Ramarao, managing director of Advanced Radio Masts (ARM) Limited, the private firm to which the out of turn contract was awarded. Ghosh was sentenced to a two year jail term and fined Rs.1 lakh and Ramarao like Sukh Ram, sentenced to rigorous imprisonment for three years and fined Rs. 2 lakh.

The three men were held guilty of entering into a criminal conspiracy and causing a loss to the public exchequer. They were convicted under provisions of the Indian Penal Code and the Prevention of Corruption Act.

The execution of the order was, however, suspended till August, 5 following submissions by Sukh Ram, Ghosh and Ramarao saying they would challenge their conviction in the Delhi High Court. The three were released on bail after each of them submitted a bail bond of Rs.1 lakh and a personal surety of an equal amount.

Sukh Ram's counsel pleaded that the court should take a lenient view in the case, considering that the ex minister was 75 and had undergone a bypass surgery.

The court dismissed the plea, saying "A public servant once found guilty of corruption deserves no indulgence from the court".

***"The Honest need no props. The corrupt need accomplices."***

The Sukh Ram Saga reported was as follows:-

- Sukh Ram awarded contract in 1992 as a minister in Congress Government.
- Later left Congress to form new party.
- The BJP agitated against Sukh Ram when corruption charges surfaced.
- But the BJP accepted him as an ally. In 1998, it came to power in Himachal Pradesh with his support.
- Sukh Ram was made a minister in HP.
- When charges were framed against him, he quit under BJP pressure

During the days of Sukh Ram's being telecom minister it was widely known that his staff was openly collecting money for new connections and public call office permits. An amount of about Rs.50 lakh per month was being earned. Upon assuming power Sukh Ram has issued a written order that all contract cases should be put up to him.

During his time the DOT swelled with favorites appointed in the Tender Evaluation Committee. Whenever a party was to be favored a case was built up from the start and all loopholes plugged. Once when Supreme Court was involved to take cognizance of the arbitrary awards of telecom services, nothing could be found. Sukh Ram used to sit over a file till he got his cut therefore, soon the parties would automatically pay so the cases could be expedited. In such a case a proving a case of corruption was impossible. The racket contributed for the entire term of the minister.

In our political system the serious drawback is that there is nothing to stop a minister from assuming sole powers of sanctioning the awards of contracts. Earlier, the powers were with the Telecom Board, which were usurped by the minister on the pretext that bureaucrats delay the files. Also since it was known to all the staff members even if they could not go against him and to whom could they complain? There are no provisions in the rules through which even an honest bureaucrat or govt. official could confidently bring to books the bribery of a corrupt minister to the notice of superior authorities.

Now days it is the order of the day. The experienced ministers no longer rely on senior officials to process a case, which interests them. A direct nexus with the head of a corrupt minister by passing secretaries can also exist. There is a great number of agents

or fixers in the name of consultants to the ministers who are adjust at moulding the govt. procedures for their benefit.

***“Power Corrupts the few while weakness corrupts the many.” – ERIC HOFFER***

There is a pervasive decline in the integrity of the beauracracy and the politicians in this country have systematically tried to destroy the moral and integrity of these officers. This is amply exemplified in the phenomenon of recruitment and transfer of govt servants, which was now become almost a full fledged industry.

The Tehelka.com's Tarun Tejpal completely unveiled the corruption practices of Bangroo Laxman and Ms. Jaya Jaitely but they seemed to be unperturbed. Instead Tarun Tejpal is now faced with charges.

In India unless the politicians are made accountable for their activities, they will not reform, which requires stringent legislation which again is in their own hands. No bill can be passed which would make this class of the society accountable.

There are certain departments and posts, which offer ample opportunities for graft. For instance, at the state level departments of public works forests, excise, sales tax, revenue, police, food and civil supplies, road transport and health are favourite pasture of the corrupt. Earlier the politicians used to occasionally help a corrupt official in difficulty and get their reward. Now in all these departments, lucrative assignments have been clearly earmarked, and only those officials are given these posts with whom the politicians have reached a clear understanding on sharing the spoils. In the states appointments even to the Public Service Commissions are mostly done on a quid pro quo basis, and the candidates they select are those whom the ministers have recommended. In departmental recruitment, a police constable's post may be bought for Rs.20,000-30,000, a sub inspector's for Rs.50,000. Right from the primary school teachers to the gazetted level almost every post carries a price tag. In several states MLAs and MPs have been fixed quotas of transfers at various levels. This has now become a fairly widespread practice.

The moment a state ministry changes, chief secretaries and the police heads are changed immediately, and a new team loyal to the new masters appointed. Consequently honest and deserving officials get unimportant postings and those willing to swim with the tide get the plum ones.

India's massive public sector was created, as the private sector did not have the resources to take up this enormous task. Secondly, there was also the socialist objective of controlling the commanding heights of the economy. But the state

“You shall not take bribe for a bribe Blinds the eyes of the  
Wise

***and Subverts the cause of the Righteous” --- BIBLE***

governments have also set up hundreds of public undertakings that do not serve any economic or social purpose. They are mostly sick units and have accumulated losses amounting to thousands of crores. The sole reason for their existence is to provide sinecures for politicians to buy their allegiance. The chairmen of practically all these undertakings are either legislators who could not be given a ministerial berth, or influential local leaders whose goodwill is considered necessary by the chief ministers. The chairmen are given rent-free bungalows, chauffeur driven cars, telephone, persona staff, and a fiefdom to lord over. More importantly, there is plenty of scope to get large cuts on awarding contracts. The most obnoxious aspect of this practice is that the Representation of People Act debars a legislator fro holding an office of profit. This hurdle is conveniently got over by declaring that these chairmanships do not amount to office of profit. A day may come when booth capturing is declared an accepted electoral practice!

Our politicians profess to live for the people, and swear by them in every speech. But there is no other section of humanity, which so flagrantly robs the people and works against their interests. Getting kickbacks from big deals is bad enough. But one has to be a human vampire to defraud the poor of funds earmarked for poverty eradication schemes. Jayalalitha embezzled crores from the provision made for giving sarees and dhotis to the poor, and school uniforms to children. In Maharashtra a Collector was removed when he pointed out that the local politicians were pocketing funds meant for the much-acclaimed Employment Guarantee Scheme. In Madhya Pradesh an education minister, Dharmapal Gupta, wad indicated for misappropriating funds allotted for the purchase of tat pati (jute matting) and other material meant for the village schools. In the same state Rs.2.15 crore were spirited away from the funds given for scarcity relief operations in drought hit areas. In several states the politicians and their relatives have grabbed land reserved for building houses for the homeless. In all such cases it was the voiceless and deprived sections of society who were robbed and it was their leaders who did it.

Thousands of crores of public money has been stashed in secret foreign bank accounts by corrupt politicians. Not only is the country deprived of making any productive use of this money but the foreign courtiers get cheap and easy capital.

***“The corrupt have many masters. The honest serve none”.***

## 5) OUR JUDICIAL SYSTEM

Soli Sorabji the respected and admired legal luminary of our country made some caustic comments about the prevailing chaos in the judicial system of the country while delivering his inaugural address on June 29, 1998 at a workshop on access to justice, organized for Commonwealth countries. He quoted "The inaccessible judicial system in the country, if allowed to continue, will lead, to a denial of justice and emergence of street law." He added that there was a crying need in the country to change the judicial process to make justice swift and effective.

Following Sorabji's comments *The Asian Age* came out with an editorial on 1<sup>st</sup> July 1998, attributing the chaos in the judicial system to the stalking demon of corruption. The contents of the editorial are worth perusing and are reproduced below:

### **The Inside Story**

Attorney-General Soli Sorabji is not wrong when he says that the inaccessible judicial system in the country will eventually lead to a denial of justice and the emergence of street law. Except that being in the position he is, he probably cannot admit that street law had already taken over the dispensation of justice, which has become a farce for the average citizen. Court cases drag on forever with the result that the honest citizen is put to tremendous hardship. For instance, as Mr. Sorabji has also pointed out, a person trying to get his own apartment back from a tenant is often confronted with a stay order, which in effect means that he has been thrown into a long battle to get back what is his. The choice is to wait forever in the hope that one day the house will be his and he will alive to live in it, or to get quick action. Here the underworld comes in handy and cases of criminals being hired particularly to resolve property disputes is on the rise. In all states property litigation probably constitutes the bulk of cases pending settlement in courts and these involve all citizens from the very poor to the rich. Fed up with the slow progress in the courts, one or the other party often takes justice in its own hand and the districts are replete with instances of violence and death. The judicial system does require a review. But it is one aspect of governance that has never seemed to concern the government in power. The judiciary itself remained largely indifferent to the fact that the courts have become so overweighed and slow that instead of dispensing justice these are actually denying justice. The common man's woes are aggravated by the fact that

***"The litmus test of honesty is whether you can resist temptation  
when everything is at stake."***

corruption has eroded the very vitals of the judicial system. The lower courts in particular are victims of this with the result that the poor villager seeking justice in the districts finds that this remains totally elusive. He goes to the courts to get what is his,

to fight for his rights, he comes out having lost all his earnings and with nothing in his pocket. That is why the local politician earns a fortune in first getting two opposite parties to file a case in the local court, and then taking them aside and helping them to resolve the issue outside the court. For a fee of course, as he can then explain to them that if they continued fighting the case in court it would cost them a lot of money and time, both precious commodities. A vested industry has sprung around the courts, the aim being to extract as much money as possible from the clients. A visit to the Patiala courts in Delhi should be an experience for the uninitiated. Nothing gets done unless some money is slipped into the outstretched palms of the clerks on duty. Lawyers keep this money aside and then add it to the client's bill. It is time that jurists of stature get together and give deep thought to all that ails the system. It is time that the review is matched by a concrete plan of action and overhaul whereby justice becomes available in the real sense to the citizens of India. Otherwise the mafia, which is already assuming control, will come to be in total charge and what happens inside the court will become secondary and incidental to what happens outside.

There is one other corruption-based method of harassment in judicial proceedings. The plaintiff who files a civil suit is naturally anxious to propel the case forward as rapidly as possible. The respondent on the other hand tries to find all possible means to delay the proceedings. When a date is fixed for hearing the plaintiff arrives and appears before the court with his counsel, his witnesses and his documents, having incurred a lot of expenditure on these arrangements. All that the respondent does is to absent himself on medical grounds, producing a medical certificate from a qualified doctor. That is easily secured for a few rupees. Then the respondent's lawyer files an application for the postponement of the hearing of the case to a later date on the ground that his client was sick. He takes care to pay an adequate bribe to the clerk of the court in advance who then easily persuades the presiding officer of the court to pass an order postponing the case. The poor plaintiff looks on in horror. At the next hearing the drama is repeated. Thus the case goes on and on. Usually other cases are similarly postponed in each court every day, resulting in rich pickings for the presiding officer and the clerk. On occasions when the right incentives have been provided in advance, the presiding officer himself 'falls ill' and thus all the cases fixed for that day are postponed. The court is happy and the respondent is happy. The only

***“The honest have value. The corrupt have a price.”***

person who suffers is the plaintiff who is seeking relief and justice. The judiciary at the district level, which deals with the problems of the people in the first instance, is riddled with corruption. The whole situation is farcical.

The deterrence of the criminal justice administration system is not only on the wane but almost totally absent and this trend could lead to a situation of disaster. This was stated by M. N. Venkatachaliah, former Chief Justice of the Supreme Court of India, former chairman of the National Human Rights Commission and presently, chairman of the constitution Review Commission, in his address to a panel on criminal justice, delivered in New Delhi on 17 February 1999. Chief Justice Venkatachaliah expressed concern over the collapse of human dignity and character and degradation of the individual. Speaking on the same occasion, Commissioner of Delhi Police, V. N. Singh, attributed the malfunctioning of criminal justice administration system to the 'police, politicians, criminal nexus, archaic legal system, lack of dynamic management in the changing crime scenario and lack of public cooperation'.

This then is the sorry state of present day Indian Judicial system. What is at stake is 'rule of law' and 'Individual liberty'.

At district level and below, the judiciary is in utter chaos. The judicial process is so slow that it is practically unending. An astronomical number of court cases are pending. Civil cases relating to right to property take a number of decades to process. Judgments delivered are rarely based on merits. The subordinate judicial system is reeking of corruption. The High Courts are still regarded as safe havens for impartial judicial decisions though their reputation is not untainted. The judicial activism of the Supreme Court and the constitutional provision for 'Public Interest Litigation' that some of the highest dignitaries of the country stand arraigned in the docks facing criminal charges. The people for its integrity, transparency and impartiality hold the Supreme Court of India in high esteem.

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***"The corrupt have wealth. The honest have worth."***

## COMMITTED BUREAUCRACY

Standing up to pressure: The CBI's assertion of independence.

Consensus is a highly cherished but equally elusive goal of the political class. There have been few issues in the recent times which have offered scope for a convergence of opinion across the political spectrum. Miraculously, something close to unanimity seems to be emerging today in political reactions to one man and the agency he heads. The Congress is joined by the Janata Dal in disparagement of the Central Bureau of Investigation (CBI) and its Director. They find the ammunition for the demolition job in the agency's construction of a supposedly false case against a Bharatiya Janata Party leader. Leader of the ruling coalition, external supporter and principal Opposition have found a cause to unite them. As an acute media analyst commented. CBI is obviously doing something right to provoke this kind of a reaction.

Prime Minister I.K.Gujral summed up the sentiments underlying the new consensus in his speech at the Conference of Chief Ministers on May 24. "No investigative agency", he said, "can rally be credible if it does not act silently and does not observe the rules of the game". Moving from the advisory mode to a promise of imminent action, the Prime Minister asserted that "publicity-oriented investigations" were something that "we - a reference indubitably to the assembled governmental heads - "have to prevent". Then going aggressively into the pejorative mode, he declared that recent events in corruption investigations have conveyed the impression of certain "personalities who think it is more important for the public to know them than to know what they are doing".

***On this earth there is enough for everyone's need but not for their greed.***

**--- M.K.GANDHI**

The suggestion is clear: a serious effort is under way to forge a consensus around the complain that CBI Director Joginder Singh is an individual driven by vainglory rather than the law. The tone was set a few days earlier in the Lok Sabha. Enraged by media revelations that CBI was poised to name one of their sacred icons - the late Rajiv

Gandhi – as a suspect, in fact, chief conspirator in the Bofors bribery scandal, Congress MPs had urged on Priya Ranjan Das Munshi in his pursuit of a privilege motion against CBI Director. The media reports had originated in “leaks” from CBI, said Das Munshi, senior parliamentarian from West Bengal, as though this was axiomatic, needing no proof beyond the assertion. The represented the violation of solemn commitment given by successive governments, that Parliament would be kept abreast of developments in the Bofors investigation. While he would not question the right of the media to publish any information that can into their possession (and he cunningly flattered some in the press), he found much that was objectionable in the conduct of CBI and its Director.

Das Munshi found an ally in Sharad Yadav of the Janata Dal, motivated by the very different concern of protecting his political patron, Bihar Chief Minister Laloo Prasad Yadav, and also promoting his own political career. The mission entrapped Sharad Yadav in a major convolution over the Bofors issue. He was the ‘working president’ of a party that had always taken an aggressive stance on the Bofors matter. But where he should have welcomed the pursuit of the case towards its logical conclusion, he chose to berate CBI for exceeding its brief. Parliament represented the crystallized strength of national public opinion, he declaimed, and the Prime Minister, as a creation of the institution, needed to keep its

***“Corruption: The enemy within us and around”***

sentiments uppermost. Regrettably, he went on, the incumbent head of government had allowed his office to be reduced to one of ceremonial importance.

There was no effort at subtlety. The Prime Minister, in Sharad Yadav’s brutally frank assertion of the principles of power politics, had to ensure that the political class did not suffer a serious erosion of its

credibility on account of corruption investigations. Gujral's status as a member of Sharad Yadav's party and his dependence on the Bihar unit of the Janata Dal for his seat in Parliament made the import of these remarks fairly clear.

Just in case there was any further room for doubt, the Congress has, since it overturned the H.D.Deve Gowda Government, left sufficiently strong signals that further excavations into its record of malfeasance will invite swift retribution for the new Prime Minister. The stakes are now higher for the principal external bulwark of the United Front Government. Its erstwhile leader, P.V. Narasimha Rao, may have gone stoically to trial in a multitude of corruption cases, accepting the reality that a newly assertive judiciary left the Government with little choice but to allow the law to run its course. But the stakes for the party have been raised with the induction of Rajiv Gandhi's widow as "primary member", no less, and her newly acquired salience in party affairs. For the lesser leaders, the situation affords opportunities to conceal their own transgressions behind the interests of India's premier political dynasty.

**"Even when there is no law there is conscience" – PUBLICIUS SYRUS**

The CBI is not, of course, entirely friendless. Just days after it announced its intention to prosecute Laloo Prasad Yadav for culpability in the massive defalcation of funds from the Animal Husbandry Department in Bihar, Harkishen Singh Surjeet, General Secretary of the Communist Party of India (Marxist), issued a strong statement in its defence. This sent out a signal that the Left would not remain a spectator to the process of trying to neuter CBI's new-found independence under Joginder Singh. When the entire country is agitated by the scandal and anxious to arrive at the bottom of it, it is disingenuous and diversionary, said Surjeet, to "concentrate fire on

CBI ". In the last 11 months, he continued, CBI had "unearthed many cases and exposed to what extent the system is corrupted". The pervasive spread of corruption, rather than CBI's efforts, represented the true danger to the "democratic fabric of society." Hence, no effort should be made to "denigrate the investigations of CBI ".

The Left as a whole seemed united in its perception on the immediate need for Laloo Prasad to vacate his office. A discordant note was introduced by Indrajit Gupta, Communist Party of India veteran and Home Minister. Deviating from the stated position of his party, Gupta trained his guns on CBI, holding it guilty of irresponsible conduct in the pursuit of various investigations.

Expediencies of running a coalition government make for strange alliances. The U F Government has now signalled that it retains its options of stopping CBI dead in its tracks, if necessary by securing the replacement of its head. A second possible course would be to decline (or endlessly delay) sanction for prosecution in

***"Allah Curses the giver of Bribes and the Receiver of Bribes and the person who paves the way for both parties". --- PROPHET MOHAMMED***

the Bofors and Bihar AHD scandals. The law of the land affords a layer of protection to public servants threatened with criminal prosecution in cases connected with the discharge of official functions. Section 197 of the Criminal Procedure Code decrees that the sanction of the authority empowered to remove him from office is necessary for prosecution against any public servant. A similar clause - Section 19 - has been inscribed into the Prevention of Corruption Act, which otherwise affords wide latitude for the punishment of official malfeasance.

These provisions of the law cope rather poorly with current realities. It is not clear, for instance, that a Prime Minister is appointed by the President of the Republic, or that a Chief Minister is appointed by the Governor of the State. Former Tamil Nadu Chief Minister J.Jayalalitha, for instance, has taken the plea in a petition before the Supreme Court that the Chief Minister is appointed by the legislature, which alone is competent to sanction his or her prosecution. The case has since been referred to a Constitution Bench of the Supreme Court, where it awaits final resolution.

Recent events make it imperative that these finer points of law are settled quickly. The need to protect public servants from frivolous litigation and ill-conceived prosecution is considerably less urgent than the imperative of safeguarding the principle of equality before the law. This is the central point that emerges from the recent phase of autonomous action by CBI. Public servants need a degree of security in the pursuit of their official tasks, but greater still is the requirement to enforce strict rules of accountability.

***“Men are more often bribed by their loyalties & ambitions than money.”***  
**ROBERT JACKSON**

Sanction for prosecution is a vestigial source of protection for the interests of the political class. This is not a privilege that is to be surrendered with ease. Dispassionate observers believe that short of deleting these provisions of the law - which are increasingly being seen as antithetical to the principle of equality - a reasonable compromise would be to specify a time limit for deciding on sanction. They cite the illustrative case of the scandal surrounding the acquisition of Czech pistols during the Rajiv Gandhi regime. Sanction for prosecution, sought more than five years ago, is yet to be granted in the case.

The immediate prognosis is for a hard-gought legal battle over the sanction issue. In the process, the so-called “single directive” of

the Union Government, which demands prior clearance from the Secretary of the administrative ministry or department before investigations can begin against certain categories of officials, including banking officials from the level of loan-sanctioning general managers, may also come in for scrutiny. Also calling out for attention are certain infirmities in the statute governing the functioning of CBI .

It is remarkable but true that CBI is, under law, no more than a wing of the Delhi Police. It enjoys original jurisdiction over any criminal offence committed within the territory of the national capital, but its involvement in investigations outside is contingent on sanctions being obtained both from the Centre and the State Government concerned. State governments have in past afforded CBI with a blanket sanction to investigate any service related misdemeanour or crime of a central government official in their territories. But even this is subject to arbitrary

*"Behind every corrupt man there is a greedy family".*

revocation, as was done by former Andhra Pradesh Chief Minister N.T.Ramo Rao in 1988, when CBI was perceived as the cat's-paw of any interfering central government.

Judicial intervention has ensured an expansion in CBI's area of jurisdiction in recent times. The Jain diaries hawala payoffs scandal was a key event, with the Supreme Court literally forcing the pace of the investigation, impelling CBI to file a number of charge sheets against influential political figures. Subsequent events have shown that under the goad of judicial strictures, CBI was stampeded into a number of prosecutions that it has been unable to sustain. This is something that investigators within the agency display a certain sense of unease about.

A case in point is the sequence of variable orders issued by the Supreme Court in connection with the AHD scandal. First, while correcting an unsound Patna High Court ruling that the Joint Director investigating the fodder scam in Bihar should not take instructions from his chief, the apex court ruled that the Director, CBI would finally decide what to do about a case; but in the event of a difference of opinion between CBI officers, the matter should be referred to the Attorney-General of India for an opinion. Subsequently, the Supreme Court clarified that this new rule would apply only to differences between a Joint Director and the Director of CBI, not to other kinds of differences.

A third order meant that if an official of the rank of Inspector-General recommended prosecution and the Director agreed with this, there was no need to go to the Attorney-General. A fourth order was to the effect that if the Attorney-

*"No Legacy is as Rich as Honesty". --- WILLIAM SHAKESPEARE*

General agreed with a recommendation for prosecution, the opinion would be complied with forthwith; but if he or she did not favour prosecution, the matter would be referred to court. Under these legal circumstances, CBI officials have found the going difficult and tricky.

It is supposed to be settled law that courts do not intervene at the stage of investigation. Prosecution also is essentially a police function, a matter of investigative judgement guided by legal advice. But the recent practice of the courts monitoring both investigations and decisions relating to prosecutions has altered the situation rather profoundly. A parallel to what has happened in the Bihar fodder scam case is the directive of the Supreme Court in the Jain diaries-hawala

payoffs case in February 1996 that proceedings against any individual should be closed only after obtaining the concurrence of the court.

While public opinion seems overwhelmingly to be on the side of this type of anti-corruption oriented judicial activism, the practical results have been equivocal. A number of petitions seeking discharge from prosecution in the hawala case have recently been upheld by the Delhi High Court on grounds of insufficiency of evidence. It remains to be seen if, when these judgements are allowed to be appealed, the apex court will reverse these demoralizing outcomes for the prosecution. Yet few observers have been willing to concede that the case is inherently flawed. Perhaps CBI has been unable to overcome the legacy of prolonged inaction in the hawala case, after the Jain diaries came into its possession in 1990. Certain charge sheets against individuals known to have received the payoffs and rendered reciprocal favours to the Jains will presumably survive judicial scrutiny. These represent cases where CBI was relatively uninhibited in its inquiries.

***“The proof of Honesty lies in its practice”.***

As an agency, CBI has always had a fair degree of professional credibility when not burdened by an unwritten political agenda. The number of its officials of calibre who have entered the annals of political victimization bears testimony to this. A case in point is K.Madhavan, who was removed from the Bofors investigation by the P.V. Narasimha Rao administration in 1991 and finally quit the organization when balked in the prosecution of the securities scam. Then there is N.K.Singh, who secured the conviction of Sanjay Gandhi and V.C.Shukla in the Kissa Kursi Ka case in 1977 and later returned to make the initial breakthroughs in the St.Kitts case in 1990, only to be abruptly shunted out by the Chandra Shekhar regime. This raises the question whether the autonomy that CBI today enjoys - thanks to the rise in anti-corruption public awareness, thanks to the independence of its present leadership, with its Director leading boldly from the front, and thanks in part to default, in that there is an imbalance in the

present power relations between the executive and the judiciary – could be secured by statute.

The question has been raised in political debates repeatedly over the past, only to be rapidly suppressed. Few politicians seem prepared to provide the agency with the kind of statutory independence (or even autonomy) that could recoil against a professional with powerful and inexhaustible vested interests. The Supreme Court recently brought up the issue during its hearings on a public interest petition dealing with the Jain diaries- hawala payoffs case. Responding to a question from Chief Justice

J.S.Verma, Attorney-General Ashok Desai affirmed that the

***“Knowledge without integrity is Dangerous and Dreadful”.***  
**SAMUEL HOHNSON**

Government was indeed exploring options to provide CBI with greater autonomy. But the assurance was vague enough.

Legislation on the matter is unlikely to come in the near future, given the insecurities of the political class. Recent experience suggests that a change in the rules of the game is more likely to come from judicial reinterpretation of the law of the land – or future clarification of what the rule of law entails. Public concerns over corruption have never been more acute than now. Awareness of the scope and potential of public interest litigation, similarly, runs high. Unless politicians are able to stand and deliver on their promises to introduce a greater measure of accountability into their activities, they may well find the judiciary appropriating that role. Feeble polemics about an activist judiciary encroaching into the terrain of representative politics would then serve little purpose. Institutionally speaking, if the performance of the judiciary vis-à-vis the challenge of going aggressively after corruption has been flawed, somewhat inconsistent and not always

effective the performance of the executive branch and of Parliament has been incomparably worse. In such a situation, the assertion of independence by CBI under Director Joginder Singh is likely to win strong popular support - provided the misinformation on the facts of the relevant cases and the diversionary ploys of all those who want to protect the corrupt can be countered.

**(The Frontline June 13, 1997).**

***“When Vigilance Awareness comes Can the end of Corruption be far behind”.***

## FROM PLASSEY TO BUXAR

1. East India Company was now determined to remain in Bengal even against the wishes of the Nawab and to trade there on its own terms. Its right to trade with the East had been extinguished by the Parliament in 1693 when its Charter was withdrawn; it had paid huge bribes to the King, the Parliament, and the politicians of Britain – in one year alone, it had to pay Sterling 80,000 in bribes.
2. Siraj-ud-Daulah insisted that the British should trade as per the terms and conditions settled at the time of Murshid Quali Khan. Instead of agreeing to pay taxes to the Nawab, they started levying heavy duties on the Indian goods entering Calcutta, which was under their control. Matters came to a breaking point when the Company began to fortify Calcutta without taking Nawab's permission. How could an independent ruler permit a private company of merchants to build forts or to carry on private wars in his land? He ordered both the English and the French to demolish their fortifications at Calcutta and Chnadranagore and desist from fighting each other. While the French Company obeyed his orders, the English Company refused to do so.
3. Infuriated by the Company's refusal to obey his orders, the Nawab seized the English factory at Kasimbazar, marched on to Calcutta and occupied Fort William on 20 June 1756. He then returned from Calcutta without annihilating the enemies.
4. The English officials took refuge at Fulta near the sea. Here they organised a web of intrigue and treachery with the leading men of the Nawab's court. Chief among these were Mir Jaffer, the Mir Bakshi, Manick Chand, the officer in charge of Calcutta, Amichand, a rich merchant, Jagat Seth the biggest banker of Bengal and Khadim Kahn, who commanded a large number of the Nawab's troops. Reinforcement arrived from Madras and Clive conquered Calcutta in the beginning of 1757. He compelled the Nawab to concede all the demands of the English. The Nawab and the Company fought at Plassey on 23 June 1757. Major part of the Nawab's army led by traiters the traitors Mir Jafar and Rai Durlabh. Those who fought bravely were routed. The Nawab was forced to flee and was captured and put to death by Mir Jafar's son Miran.
5. The English proclaimed Mir Jafar the Nawab of Bengal and set out to gather the reward. The Company was granted undisputed right to free trade in Bengal, Bihar and Orissa. It also received the zamindari of the 24 Parganas near Calcutta. Mir Jafar paid a compensation of Rs. 17,700,000/-

***“The Honest need no props. The corrupt need accomplices.”***

as compensation for the attack on Calcutta to the Company. In addition, he paid large sums as gifts or bribes to the high officials of the Company. Clive, for example received over two million rupees, Watts over one million. Clive estimated that the Company and its servants had collected over 30 million rupees from the puppet Nawab.

Moreover it was understood that the British merchants and officials would no longer be asked to pay any taxes on their private trade.

6. Mir Jafar soon discovered that it was impossible to meet the full demands of the Company and its officials. They forced him, in October 1760, to abdicate on favour of his son-in-law Mir Qasim. Mir Qasim rewarded his benefactors by granting the Company the zamindari of the districts of Burwan, Midnapore and Chittagong and giving handsome presents totalling 29 lakhs of rupees to the high English officials.

7. Mir Qasim was an able efficient and strong ruler determined to free himself from foreign rule. He tried to prevent public disorder, to increase his income by removing corruption from revenue administration and to raise a modern and disciplined army along European lines.

8. Earlier in 1717, the Moghul Emperor had granted a farmland to the Company vide which their export goods were exempt from duties. Besides, they also had power to issue passes to the Indian traders for the movement of such goods. Over a period of time, the servants of the Company were misusing the farman. They were not paying duties even for their domestic trade. They were receiving bribes from Indian traders for issue of bogus passes even in respect of goods transported for domestic trade. This affected the honest Indian traders who had to pay taxes in respect of the movement of their goods.

9. Mir Qasim could not force the Company to pay taxes in respect of the movement of goods meant for domestic trade. He tried to remove the anomaly by abolishing all duties on internal trade. But the alien merchants could not tolerate equality between them and the natives. They demanded the re-imposition of duties on the Indian traders. Mir Qasim resisted this and a battle erupted. Mir Qasim fled to Awadh and formed an alliance with the Nawab of Awadh and Shah Alam II. The allies were decisively defeated in the Battle of Buxar on 22 October 1764.

10. In 1763, the Company had restored Mir Jafar as Nawab and collected huge sums for the Company and its high officials. On Mir Jafar's

*"Power Corrupts the few while weakness corrupts the many." – ERIC HOFFER*

death in they placed his second son Nizam – ud-Daulah on the throne and as a reward made him sign a new treaty through which he became a titular ruler.

Try to answer the following:

a) Siraj-ud-Daulah failed because there were traitors around him; why did Mir Qasim fail?

b) Why could not Mir Jafar succeed in spite of paying in cash and kind to propitiate the company?

*"You shall not take bribe for a bribe Blinds the eyes of the Wise  
and Subverts the cause of the Righteous" --- BIBLE*

## HAWALA

The Jain Hawala case stands in a class apart in the history of financial scandals. In terms of money it was not a big affair. But it rocked the Indian political system, laid low several high flying leaders, and exposed the soft underbelly of the Indian state.

The CBI came across the name of the Jains while probing into the funding of Kashmiri militants. This led to a raid on the house of J.K. Jain, a trusted accountant of the Jain brothers, on 3 May 1991. Besides a lot of cash the CBI team discovered two notebooks containing entries of various payments in simple code. These diaries happened to be the biggest cache of dynamite that this agency had ever handled. The entries referred to payments made to a large number of top politicians and ministers from time to time. These documents were immediately sealed and kept under wraps for more than two weeks.

In the Supreme Court, Chief Justice Venkatchelliah was heading the bench for this case. On his retirement Justice J.S. Verma took his place on the bench. The new director of CBI, Vijay Rama Rao, also took charge around the same time. These two changes marked a turn around in the progress of the hawala case. The Supreme Court pulled up the CBI for its casual attitude and decided to have weekly hearings. The new CBI director also saw how his organization had been soft pedaling the investigation and started personally monitoring its progress.

As a result of these developments, cases under the FERA and Prevention of Corruption Act were registered against the Jains, and Surendera Jain and his accountant were arrested on 4 June 1995. It was after going to jail that Surendra Jain somehow felt provoked and gave his famous 29 page statement to the CBI on 11 March 1995. This statement implicated a number of senior Congress ministers and leaders of other political parties, and furnished the most damaging details of his dealings with them. As the Jain diaries were seized in 1991, this statement also contains particulars of his later deals especially the payments made to Narasimha Rao.

In the first phase, the CBI raided the houses of some out of power politicians like Arif Mohammad Khan and Devi Lal, businessman Lalit Suri, and some officials. But the SC wanted the CBI to get some big fish. So on 16 June 1996 the agency informed the SC that charge sheets against three Central Ministers, i.e. Balaram Jakhar, S.C. Shukla and Madhavrao Scindia were ready. The list also included the name of BJP President L.K. Advani, former Union Ministers Arjun Singh and Yashwant Sinha, and Janta Dal leader Sharad Yadav.

“To make your children capable of honesty is the beginning of education”  
--- JOHN RUSKIN

The newspapers came out with screaming headlines and the nation was scandalized. The three central ministers resigned and Advani relinquished his seat in the Lok Sabha. Later, Congress leaders like R.K. Dhawan, Kamal Nath and Bhajan Lal were also charge sheeted. Madan Lal Khurana, CM Delhi, also quit on being implicated. Satish Sharma, despite damaging evidence against him, escaped as he was not a public servant at the time of the transaction.

In his long statement made to the CBI on 11 March 1995, Surendra Jain gave details of the payments made to fifty seven politicians. The list covers R. Venkataraman, president of India, Prime Minister Rajiv Gandhi and P.V. Narasimha Rao, a couple of governors nine chief ministers thirty union ministers and several other leaders of standing. The beneficiaries thus covered the entire political spectrum of India. It is a fearful thought that just one fixer could corrupt the entire political elite of India by doling out a largesse of Rs.65 crore paid over a period of three years, i.e. from April 1988 to March 1991. And this country is full of such smart operators who keep the mills of politics running. It is also awesome to realize how intimately the wheeler dealers are associated with political skullduggery. Jain describes in detail

*"Do not do what you would undo if caught." --- LEAH ARENDT*

## POLICY REVERSAL

In Chitrakut district of Uttar Pradesh there are hundreds of "Victims of development programmes" - people who became indebted and whose livelihood deteriorated because of faulty implementation of development programmes based on subsidised loans.

Some years ago, a spate in loan-cum-subsidy schemes were sent to this area (at that time this was a part of Banda district) mainly to improve the livelihood of Kol tribals and other weaker sections. The intentions may have been good because there is poverty in this region but senior officials who sent these schemes ignored some crucial realities. At that time, hundred of Kol tribals and other poor families were in the grip of big landlords/feudal interests. Once there landlords came to know that a chunk of money was coming to the area for the Kols they wanted to grab a substantial share.

Many gram sevaks and other petty officials became a link between these landlords and bank officials (or officials of departments concerned). Other dubious characters also worked as middlemen. It was the landlord and middleman's job to approach unsuspecting Kols, take them to the bank, get their photographs, obtain their thumb impressions or signatures. They accomplished this by telling the Kols that they were getting dole.

What they were not told was the fact that a much bigger loan had been entered in their name. They were given a small amount, while the rest was kept by the landlord after giving a substantial share to the officials, including gram sevaks. The wealth earned through pious means flourishes. Those who earn through dishonest means are destroyed. - ATHARVA VEDA

Another ploy was telling the Kols that a pump set or something else had been sanctioned for him, and later explaining that the scheme had been cancelled. In either case, the poor tribal either got no money or little compared to the loan entered in the accounts in his name. In most cases, whatever they got was not enough to start any new income-earning activity and was spent in day to day living. The kols soon forgot about the so called doles but the debt for the loans and the interest accrued in their names. After some years, notice for loan recovery with interest was forwarded to the Kols. Some Kol women were promised doles if they got themselves sterilised. These also turned out to be loans and they began receiving recovery notices.

The Kol tribals live hand to mouth with meagre savings. So in most cases, there was no question of paying back the loans and their only response was to run from

pillar to post to plead against the injustice done to them. Their visits to offices cost them more money, apart from the loss of daily earnings. In some cases these people received threats that their land could be auctioned if they did not pay back the loan promptly. Their only stable means of livelihood was also threatened.

As a result of these loans, they are threatened with further impoverishment if their land is auctioned or other means of forcible loan recovery are adopted. Most of these victims of fraud in the name of development are the poorest of poor because according to rules, only those classified below the poverty line are qualified for these loans. After being listed below the poverty line, a poor household becomes more exposed to fraud. Some Kols who were released from bonded labour have also become victims of fraud. They may be pushed back into bondage. (The Stateman dated 29<sup>th</sup> October, 2001).

***“The war against Corruption is the Mother of all Wars.”***

**SOPHISTICATED THIEVERY**  
**OR**  
**AUTHORISED IRREGULARITIES**

ITC is the bluest of blue chip companies, and with one third of its stake held by a reputed British concern, it was considered a model of financial rectitude. At least that was its reputation till income tax raids in 1996 revealed serious malpractices and its highest officials were taken in judicial custody. The trouble actually started in 1987 when tax officials raided ITC's offices, factories and ninety of its wholesale dealers. The charge against the company was that it colluded with its retailers to sell its cigarettes at a price higher than that printed on the pack. An internal note recorded by its chairman, J.N. Sapru, to this effect was also discovered. The purpose of this fraud was to cheat the government of excise duty, as lower printed price would attract lower duty. The company appropriated the difference between the printed and higher sale price without paying any excise or income tax on profits. The duty thus evaded worked out to Rs.803 crores and a case for its recovery is pending.

Corruption increases costs of contracts by more than the value of the bribes. Companies need to increase prices to cover the cost of the bribes they pay. But bribes remove the constraints of competition enabling companies to make greater profits. (It is reported that bribes of 2% have raised costs by 15%).

Power is one of the most scarce and valuable resources of Delhi. The transmission and distribution (T &D) loss in supplying power to the consumers is five to six per cent in Europe, and for India as a whole it is around twenty one to twenty three per cent. But for Delhi it is a whopping forty eight to fifty per cent. Why is to so? Because power theft in Delhi is a flourishing industry. And it runs not only with the active connivance of the DVB staff, but at times with its abetment.

Let us start at the bottom. Unauthorized jhuggi clusters in the city have no regular power connections. So they milk the overhead power lines through a hook connected to a long wire which gets them free power. You see this phenomenon wherever there are jhuggis or illegal constructions, and the highest in the department are aware of it. DVB Chairman cannot miss the criss cross of thousands of wires running along his office complex into thousands of jhuggis across the road, says a recent press report, yet nothing is done to check the rampant theft. The dwellers told this reporter We did not do this ourselves. We neither have the expertise nor the infrastructure. Each dweller pays Rs.200 to the

"An honest man is the noblest word of God." -ALEXANDER  
POPE

DVB inspector, who asks his agent to arrange a connection. Thereafter he collects Rs.50 -100 per month from every user against unlimited supply of power.

No wonder most jhuggi dwellers use a number of electrical gadgets. In addition to the corruption of the officials, politicians ensure that power to the jhuggis is not cut off, as their inhabitants constitute a powerful vote bank. One official said, Our former chief had once tried to check the power theft and all lines were disconnected. Within minutes, he got a call from the head of the city government who ordered him to check power theft elsewhere. When the chairman, DVB was contacted in this matter his reply was:

Are jhuggis the only people steal power? Don't commercial establishment and industries do the same. There are houses and shops in Greater Kailash and South Extension with eight air conditioners and they steal power. These wealthy thieves are our priority. In another case senior DVB official said that they were pressurized by the politicians on the ground that

Jhuggis are our vote banks. And politicians insist that we do not harass their vote banks. They tell us to go to bigger industries who steal power. And when we check industries the same politicians tell us not to touch their money banks.

So, on to these wealthy thieves. The largest proportion of them live in the Sainik Farms and other clusters of farmhouses on the outskirts of Delhi. In the beginning some of these were given electric connections for farming. And power continues to be supplied to them at much lower rates for agricultural operations, though it is actually used to run air conditioners and tube wells. But most of the residents steal it openly with the help of the DVB staff. So heavy is the consumption of power by these sprawling palaces that the transformers get overloaded owing to over drawl, and the adjoining DDA colonies have to bear the brunt when the system trips. Whereas the farmhouses then switch on their generators, the colonies sweat it out in the dark. There were token raids on twenty five farmhouses in the first six months of 1997 and power theft worth one core rupees was discovered. But there is little prospect of recovering this amount. And still these robbers have grievances. The treasurer of their Welfare Association told a press reporter If the government can give electricity to 271 unauthorized colonies then why not us? After all we are just another unauthorized colony in a city which abounds in them.... How unfair! Poor farm dwellers living in air conditioned comfort

and driven around in swanky limousines and not being equated by the socialist government even to the members of society rotting in dingy shanties!

***"Bright future awaits the honest. Shady past haunts the corrupt".***

## Article in the Hindu dated 01 Feb 03

By Alok Mukherjee

NEW DELHI JAN. 31. With an unprecedented inflow of \$ 5.7 billion foreign exchange into the country in just one and half months, speculation is gaining ground that "black money" stashed away by Indians abroad may finally be making its way back to the country, though in instalments.

Data released by the Reserve Bank shows that India's total foreign exchange reserves at \$ 72.4 billion came about because of the increase in the inflow of \$ 18.3 billion between April 1, 2002 and January 17, 2003. Of this \$ 18.3 billion inflow, \$ 12.6 billion came in during April-November 2002 whereas the comparable inflow during April-November 2001 was only \$ 4.5 billion. Moreover, in the one and half months between December 1 and January 17 this year, another \$ 5.7 billion more came in, more than the entire inflow of the eight months of 2001.

The Reserve Bank has also woken up to the unprecedented phenomenon but has stopped short of saying that this was "illegal" money returning home. Instead, it said that part of the reason could be that "export receipts which may have been withheld earlier due to expectation of further depreciation of the rupee are also being realised faster as the rupee has appreciated." But with exports not showing any extraordinary increases in recent times, experts feel that faster realisation of recent export receipts could not be the sole reason for the bulge in reserves.

Admitting that the large improvement in the external position is "unprecedented in India's own history," the RBI listed the major source of accretion in reserves between April and November 2002 to a \$ 2.5 billion surplus in current account balance and a net capital account balance of \$ 8 billion. Interestingly, it is not the non-resident Indians (NRIs) who are contributing to the surge since net NRI deposits are actually down this fiscal year till November to \$ 2.1 billion against \$ 2.2 billion that came in during April-November 2001.

There are two heads in the RBI table which show an unusual increase. One is 'other capital' which has swelled from 2.5 billion in April-November 2001 to \$ 3.8 billion in the same months of the current fiscal. The other bulge is on account of valuation changes which increased the reserves by \$ 2.1 billion this year whereas the contribution of this head was only \$ 0.4 billion in 2001.

One major reason for the possible return of the stashed black money abroad could be the global tightening of screws on "secret accounts" in the wake of the international crackdown on terrorist funding.

The RBI is, however, comfortable with the current situation. According to its analysis, a substantial portion of the fresh accretion in reserves has been by way of current account surplus (20 per cent), non-debt creating capital flows (40 per cent)

***"The war against Corruption is the Mother of all Wars."***

and by way of currency valuation (17 per cent). The balance (23 per cent) has come in by way of debt creating capital inflows and includes NRI deposits, "other assets" under banking capital and short-term loans. The RBI, thus, feels that since the debt creating inflows are significantly low, it may be concluded that the cost of accretion to reserves is not very significant.

Please help make the Manifesto better, or accept it, and propagate it!

-----  
Umesh,

I am all for black money. Anyone who has run a small business in India is all for black money. India penalises success in every way. From the lowly chaprasi in the government office who begs the successful businessman "Saab, aap itna paisa banate hai, kuch hamara bhi chai-paani ka intezaam karo", to the local goonda with political connections who threatens "Kyare madarchod, janta ka itna paisa kamaya, aur janta ki seva ke liye nahin dega". The small businessmen have learned that it is best to show a loss on the books the hard way, because every small successful business is the target of corrupt IT officials, who harass even honest businesses until the owner bribes them away. It is very easy for u to sit and sermonize, but the black money symbolizes the real economy. Look at what rent-control has done to real estate in Bombay. It is the most corrupt, criminalized business in India today. Rent control artificially decreased prices resulting in a tremendous balck market. Everyone sells and buys in black: white 60:40.

Its the official ratio. You should be glad that at least the black economy thrives, cos that is what keeps India and its economy afloat... Black money is nothing but what each businessman thinks he deserves of the wealth he has created (yes, wealth is created!!), which he loves because it is his hard work, and which he refuses to part with to your everyday parasites...

AP

--- Chetna & Umesh Tiwari <chetna.umesh@usa.net> wrote:

> -----  
> Please help make the Manifesto better, or accept it, and propagate it!

> -----

> [http://www.indiapolicy.org/lists/india\\_policy/2000/Jul/msg00054.html](http://www.indiapolicy.org/lists/india_policy/2000/Jul/msg00054.html)

>

I agree 100%. This is the basic flaw in the thinking of those who wish to solve every problem of public ethics or morality and the sense of public duty by doling out money.

>

> Those who dare to get involved and do something about fixing the rot in public life are already there on ground zero, and doing as much as an insignificant minority of them can do. If you care to pay attention, you can certainly locate them around you.

>

***On this earth there is enough for everyone's need but not for their greed.***

---

**M.K.GANDHI**

> Other than that, the rest is matter of individual perspective. You can either call it our misfortune as a society that anti-social elements rule us, or you can also say this is exactly what we deserve until we as a society learn to relate our own well being with the health of the society we live in. Only then will we be compelled to get involved, only then a father will not teach his son to stay away from public life or politics, only then will we pay attention to the daily activities of our public officials, and only then will we make

> educated decisions at the time of electing public officials.

>

> Until that happens, those who live in perpetual prosperity thanks to ignorant masses and flourishing black money business won't have to worry or complain, and those who have been living miserable lives for centuries will continue to do so without complaining. The later kind have a saying in my village:

> "Kou

> Nrup Hoi Hamahi Ka Haani, Cheri Chhadi Kab Hob Ki Raani" ("Whoever becomes the king why do I care (or what's my loss?), cuz whatever is the case, I will remain the servant that I am, I am not going to be a queen")

>

> Either of the two kind described here are likely to fight to have a good clean government of their chosen representatives. The responsibility lies with a very thin minority of "others" who care, and very few of those who think they care, are really willing to work for it without showing first a wish list as to what they seek to gain personally in return (like Rs.30,000 or Rs 175,000 per month).

>

> God save India!

>

> Umesh Tiwari

>

> \_\_\_\_\_  
> Get free email and a permanent address at <http://www.amexmail.com/?A=1>

>

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### *“Corruption: The enemy within us and around”*

So far, we have been discussing what VISION 2020 should have. For a change, let us now discuss what VISION 2020 should not have. Naturally, the ideal (or even practical vision) should not contain anything harmful. There will be near unanimous agreement that black money comes under that category.

What is black money? Black money is money accumulated by not paying the taxes imposed by the government. Therefore, black money involves two players: One is the tax evader who does not pay taxes; the other is the government which decides what taxes should be paid and at what rate. It is widely accepted that it is the legitimate duty of the government, its exclusive prerogative in fact, to levy taxes in any manner it deems fit. It is equally well accepted that not paying such taxes is a crime, and a sin too. These propositions are assumed to be so essential for law and order, and so basic too, that both of them are treated as axiomatic truths of the political economy.

The essence of VISION 2020 is to think the unthinkable, to explore the implausible and to challenge convention. Then, if we want to get away from a mental rut, if we want to explore intellectual spaces not yet explored, we should question even those (particularly those) assumptions that folklore treats as sacred. Then, is it correct to assume that no one has the right to evade taxes - whatever the circumstances may be? Is it an axiomatic truth that parliament is supreme and can impose taxes at will? In the process, we might as well ask: Is the Indian government democratic?

Before we try to answer these unorthodox questions, **let us summarise the basic features of black money.** One, black money has to be hidden, and therefore, not all of it can be spent. That is why, it is locked away as gold or stashed away in Swiss banks. Two, as a corollary to the above, a significant part of black income is converted into black capital. Three, even this black capital has to be hidden and hence is not freely available to be invested in the most profitable manner. Four, because black money can neither be spent freely nor invested most profitably, it hurts economic growth and reduces demand - causing thereby much harm to the economy as a whole. Five, this reduction in demand further reduces the opportunities, the holders of black money would have had otherwise, to invest their wealth profitably. For each one of these reasons, black money should be considered a mug's game. It is! Then, why do so many business people, whose sole aim is to maximise their wealth, practice black economy? To appreciate why, let us recall a sordid episode from Indian history recounted by David Landes in his book *The Wealth and Poverty of Nations*.

Robert Clive of the East India Company asked an agent by name Omichand to betray Mir Jaffar who himself had betrayed his nephew Nawab Suraj Ud Dowlah. As payment, Omichand demanded 300,000 pounds. Clive was in no humour to pay and concocted a ruse to deceive Omichand. He made out two contracts, one the real one on white paper that made no mention of Omichand and another a false one on red paper that included Omichand's demand. When not all of his officers agreed to this fraud, Clive even forged Admiral Watson's signature so as not to arouse Omichand's suspicions. In the end, when Mir Jaffar was dethroned thanks to Omichand's assistance, Clive confronted him with the white version and disowned any responsibility to reward him. Macaulay, by no means a great admirer of anything Indian, expresses his dismay at this conduct. He says that it was not "merely a crime but a blunder. Individuals may profit by perfidy but not states. Nothing other than a reputation for unconditional honesty could have enabled the

British to maintain its empire in India at so little expense. . . . The mightiest princes of the East cannot persuade their subjects to part with their wealth for usurious terms; the British can bring forth tens of millions of rupees at 4 per cent."

Is not history repeating itself? The Swiss can induce Indian businessmen to part with tens of millions of rupees at rates less than 4 per cent; the Indian government cannot get that even at 10 or 15 per cent. Why? The Swiss banks have a reputation for impeccable honesty; the Indian government enjoys no such credibility, and neither do Indian banks. It adds to one's moral outrage to denounce Indian businessmen as crooked. It is not so palatable to concede that the Indian government too would have succeeded as well as Swiss banks do if only it will honour in letter and in spirit any

***Allah Curses the giver of Bribes and the Receiver of Bribes and the person who paves the way for both parties. --- PROPHET MOHAMMED***

contract it enters into. Our "honourable" government has no constitutional obligation to honour the right to own property. There is no bank in India that is as trustworthy (let alone efficient) as even smugglers are reputed to be. (If you have any doubt, try cashing a dollar cheque in any bank in India!) Our government is unable to attract a large part of national savings even after offering inducement after inducement but foreign banks (and Indian crooks too) are able to suck away our wealth with no effort at all - except for an unconditional promise to honour contracts and deliver promptly. Isn't here some food for thought?

The malaise started immediately after Independence. The Supreme Court decided that the government cannot confiscate property without paying fair compensation. That appalled the socialist conscience of Jawaharlal Nehru who promptly got the Constitution itself amended abolishing any such obligation. He thought that he would thereby get rid of the capitalist scourge. What he got rid of was most of Indian capital! His daughter went further. She unilaterally disowned solemn promises made by her father's government to Maharajas and Nawabs. By raising Income Tax to 98 per cent, she tried to confiscate incomes too. Her minister Janardan Poojary used those taxes not to promote national economic growth but to buy votes for his own party through "loan melas". Indian intellectuals hailed Janardan Poojary as a great revolutionary. To this day, Indira Gandhi is venerated by the Indian public to the extent of being declared the greatest Woman of the Millennium. Evidently, in our country, both constitutionally, and in the general view of the public, the government is under no obligation to honour any contract it enters into.

What gives sanctity to democracy? As Rousseau has explained, democracy is a Social Contract between the people and the government. The people surrender the freedom to run their own lives; in return, the politicians agree to protect the people and to preserve them from harm. As a corollary, American freedom fighters proclaimed the principle that there can be no taxation without representation. How far have successive Indian governments lived up to these two cardinal principles of democracy? Has the Indian government accepted any obligation to protect the savings of the people, of even poor people? In all these years, has the government created any financial instrument that protects personal savings from the deprivations of inflation? When a poor labourer entrusts his hard-earned savings to the government, does it accept any obligation to return it to him its real value, in full? As it has no obligation to do so, why should not people keep their money in a safer place? If a Swiss bank happens to be that place, why should not people keep their savings there? These questions are posed here not to justify black money but to point out the issue has grey overtones and not a simple black and white case the way it is made out to be.

Then, there is the principle that there can be no taxation without representation. In the existing rule of "the first one past the post" rule for selecting MPs, does the minority that pays taxes have any chance of getting its representatives into parliament? The way democracy operates in India, only those who do not pay taxes have de facto the right to be represented in the government; those who actually pay taxes have de facto no possibility to have any such representation. Influential people in India assert that the minority, which contributes most to the tax income of the government, would not have the ability to pay unless it has sinned against the poor. The same is held to be true of

those who save. Therefore, it is argued that the government has no obligations to protect taxpayers and savers! Why should anyone pay taxes to such a government or leave one's savings at the mercy of such a government?

The black economy flourishes only after the government prepares the ground for cultivating black money. It is not a chicken and egg problem. The black government must come first before black money can!

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***“Behind every corrupt man there is a greedy family”.***

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The essence of VISION 2020 is to think the unthinkable, to explore the implausible and to challenge convention. Then, if we want to get away from a mental rut, if we want to explore intellectual spaces not yet explored, we should question even those (particularly those) assumptions that folklore treats as sacred. Then, is it correct to assume that no one has the right to evade taxes - whatever the circumstances may be? Is it an axiomatic truth that parliament is supreme and can impose taxes at will? In the process, we might as well ask: Is the Indian government democratic?

Before we try to answer these unorthodox questions, let us summarise the basic features of black money. One, black money has to be hidden, and therefore, not all of it can be spent. That is why, it is locked away as gold or stashed away in Swiss banks. Two, as a corollary to the above, a significant part of black income is converted into black capital. Three, even this black capital has to be hidden and hence is not freely available to be invested in the most profitable manner. Four, because black money can neither be spent freely nor invested most profitably, it hurts economic growth and reduces demand - causing thereby much harm to the economy as a whole. Five, this reduction in demand further reduces the opportunities, the holders of black money would have had otherwise, to invest their wealth profitably. For each one of these reasons, black money should be considered a mug's game. It is! Then, why do so many business people, whose sole aim is to maximise their wealth, practice black economy? To appreciate why, let us recall a sordid episode from Indian history recounted by David Landes in his book *The Wealth and Poverty of Nations*.

Robert Clive of the East India Company asked an agent by name Omichand to betray Mir Jaffar who himself had betrayed his nephew Nawab Suraj Ud Dowlah. As payment, Omichand demanded 300,000 pounds. Clive was in no humour to pay and concocted a ruse to deceive Omichand. He made out two contracts, one the real one on white paper that made no mention of Omichand and another a false one on red paper that included Omichand's demand. When not all of his officers agreed to this fraud, Clive even forged Admiral Watson's signature so as not to arouse Omichand's suspicions. In the end, when Mir Jaffar was dethroned thanks to Omichand's assistance, Clive confronted him with the white version and disowned any responsibility to reward him. Macaulay, by no means a great admirer of anything Indian, expresses his dismay at this conduct. He says that it was not "merely a crime but a blunder. Individuals may profit by perfidy but not states. Nothing other than a reputation for unconditional honesty could have enabled the British to maintain its empire in India at so little expense. . . . The mightiest princes of the East cannot persuade their subjects to part with their wealth for usurious terms; the British can bring forth tens of millions of rupees at 4 per cent."

Is not history repeating itself? The Swiss can induce Indian businessmen to part with tens of millions of rupees at rates less than 4 per cent; the Indian government cannot get that even at 10 or 15 per cent. Why? The Swiss banks

have a reputation for impeccable honesty; the Indian government enjoys no such credibility, and neither do Indian banks. It adds to one's moral outrage to denounce Indian businessmen as crooked. It is not so palatable to concede that the Indian government too would have succeeded as well as Swiss banks do if only it will honour in letter and in spirit any contract it enters into. Our "honourable" government has no constitutional obligation to honour the right to own property. There is no bank in India that is as trustworthy (let alone efficient) as even smugglers are reputed to be. (If you have any doubt, try cashing a dollar cheque in any bank in India!) Our government is unable to attract a large part of national savings even after offering inducement after inducement but foreign

***"Men are more often bribed by their loyalties & ambitions than money".***  
**---- ROBERT JACKSON**

banks (and Indian crooks too) are able to suck away our wealth with no effort at all - except for an unconditional promise to honour contracts and deliver promptly. Isn't here some food for thought?

The malaise started immediately after Independence. The Supreme Court decided that the government cannot confiscate property without paying fair compensation. That appalled the socialist conscience of Jawaharlal Nehru who promptly got the Constitution itself amended abolishing any such obligation. He thought that he would thereby get rid of the capitalist scourge. What he got rid of was most of Indian capital! His daughter went further. She unilaterally disowned solemn promises made by her father's government to Maharajas and Nawabs. By raising Income Tax to 98 per cent, she tried to confiscate incomes too. Her minister Janardan Poojary used those taxes not to promote national economic growth but to buy votes for his own party through "loan melas". Indian intellectuals hailed Janardan Poojary as a great revolutionary. To this day, Indira Gandhi is venerated by the Indian public to the extent of being declared the greatest Woman of the Millennium. Evidently, in our country, both constitutionally, and in the general view of the public, the government is under no obligation to honour any contract it enters into.

What gives sanctity to democracy? As Rousseau has explained, democracy is a Social Contract between the people and the government. The people surrender the freedom to run their own lives; in return, the politicians agree to protect the people and to preserve them from harm. As a corollary, American freedom fighters proclaimed the principle that there can be no taxation without representation. How far have successive Indian governments lived up to these two cardinal principles of democracy? Has the Indian government accepted any obligation to protect the savings of the people, of even poor people? In all these years, has the government created any financial instrument that protects personal savings from the deprivations of inflation? When a poor labourer entrusts his hard-earned savings to the government, does it accept any obligation to return it to him its real value, in full? As it has no obligation to do so, why should not people keep their money in a safer place? If a Swiss bank happens to be that place, why should not people keep their savings there? These questions are posed here not to justify black money but to point out the issue has grey overtones and not a simple black and white case the way it is made out to be.

Then, there is the principle that there can be no taxation without representation. In the existing rule of "the first one past the post" rule for selecting MPs, does the minority that pays taxes have any chance of getting its representatives into parliament? The way democracy operates in India, only those who do not pay taxes have de facto the right to be represented in the government; those who actually pay taxes have de facto no possibility to have any such representation. Influential people in India assert that the minority, which contributes most to the tax income of the government, would not have the ability to pay unless it has sinned against the poor. The same is held to be true of those who save. Therefore, it is argued that the government has no obligations to protect taxpayers and savers! Why

should anyone pay taxes to such a government or leave one's savings at the mercy of such a government? The black economy flourishes only after the government prepares the ground for cultivating black money. It is not a chicken and egg problem. The black government must come first before black money can!

***“No Legacy is as Rich as Honesty”. --- WILLIAM SHAKESPEARE***

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## ABSTRACT

This report explains about the impact of black economy in India. In the introduction part we come to know about, when all the developing countries were contributing more than 18 percentage of GDP as taxes, and even the least developed were chipping in 14 percent, Indian tax to GDP ratio was 11.3 percent. Then some of the definitions of black economy is given. The major causes identified are, The schemes like VDIS. Lastly, the mindset of Indians is also contributes to the accumulation of black economy. Of the total of about 1-lakh tones of gold in the world, India accounts for near 25,000 tones. The craze to posses and hold on to gold is rooted in the Indian culture so as to give rise to mafias thriving on smuggling and hawala rackets, and serves as the sheet anchor of black economy. If we look at the impact the tax-GDP ratio has decreased sharply since the reforms. However, it can be argued that black economy can have a positive impact on liquidity. Many of the assets are unproductive in nature whose declaration does not alter the production process in the economy and does not effect income generation. Hence no direct impact may be expected. Those declaring their black assets have to generate funds from current activities, black or white, to pay the tax. Indirectly, the payment of tax on these assets requires funds, so liquidity is squeezed. If we consider the social impact, It is no secret that Indian elections are financed primarily through black money. To conclude it can be said that the government should collect more money through legal means. This is possible. We can easily increase the number of assesses if we improve the administration and the administrators. Even with a low tax rate, there is an incentive to evade if tax administration is lax.

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***“The proof of Honesty lies in its practice”.***

### *Introduction*

Governments need money from administration, defense, development and other taxes to finance departmental projects that are inherently unprofitable but socially necessary. By voting Governments to power, people agree to pay taxes in return for the benefits of governance. Nobody likes to pay taxes, and some tax evasion occur in most of the economies, but in India, the social contract between the government and the tax payer is on the verge of breakdown. In the early 1990's **when all the developing countries were contributing more than 18 percentage of GDP as taxes, and even the least developed were chipping in 14 percent, Indian tax to GDP ratio was 11.3 percent.**

At last official count black economy in India was estimated to be at 40 percent of the national economy. The autonomous bodies estimate the amount to be around Rs. 5 lakh crore Mr Kamal N. Kabra, who published the first book on India's black economy 15 years ago, believes black economy constitutes of approximately 50 percentage of national income[1]. Mr.O.P.Chopra of the Faculty of Management Studies further add that the generation of black money each year would be Rs.1 lakh crore, a figure put forward buy Mr.Jyoti Basu,to national development council[2]

[1] Real Recovery or statistician?, Business Standard, Feb 26th, 1992

[1] Disclosure of income scheme, TOI ,Jan 4<sup>th</sup> ,1998

### *Some definitions*

“Black money includes income from all economic activities which in fringe on the law, particularly economic laws”

Kamal Narayan Kabra,

Institute of Public Administration

“Black economy ... is also termed as “parallel economy” to emphasis the confrontation between the objectives of legitimate and illegitimate sectors. For instance, in the broad term economic planning we include...removal of disparities of income and wealth... where as parallel economy's objectives run in contradiction to these avowed policies.”

Dutt & Sunderam

“If the “Parallel economy” poses a serious threat to the stability and growth of the official economy, surely it stems from the fact that the magnitude of “black economy” is large and rigged deals are growing in volume and complexity at an alarming rate. Apart from the wide ramifications of the “ parallel economy” one might also be alive at the fact that the “black incomes” are accentuating the inequalities in income and wealth and breeding new class of “black” rich in society which is already stratified.”

*D.K.Rangnekar*

"Knowledge without integrity is Dangerous and Dreadful". -- SAMUEL JOHNSON

## *Causes*

Jokingly, one of the Italian officials had then said that the national sport of Italy was tax evasion. In this respect, India is not far behind Italy. Several interlocking factors explain India's low tax compliance and its flourishing black economy.

The emergence of black sector started during the *Second World War* when due to shortages experienced, controls and rationing had to be introduced. After independence this was coupled with "*license-permit-control raj*", which further led to growth of proliferation of the black income in all the sectors of economy.

In 1968, Indira Gandhi's pop socialism prompted her to hike the highest *marginal tax rate to 97.7 per cent*. Faced with the option of handing over nearly all their takings to the government, companies and individual chose to understate their incomes. Thereafter, the tax structure has taken a "U" turn in 90's with the tax rate being reduced to as low as 30 percent expecting increase in tax, GDP ratio.

Mr. Kabra, however, argues that though high tax rates causes tax evasion but reduction in the same does not guarantee that tax evasion would not be resorted to. He adds that tax evasion which involves cheating the exchequer, is a small proportion of the black money. The corporate sector including both public and private, is the most important black money generator of the country. False invoicing, undeclared commissions in the sale and purchase in the corporate sector, fudging of the personal account and other resources being diverted for private ends all lead to generation of black money.

**The schemes like VDIS-type are also responsible.** These effective reward tax dodging by periodically lifting penalties on evasion and allowing undeclared income to be white-washed at the tax rates that are effectively lower than what the honest tax-payer pays. Also, **if the amnesty schemes become a recurrent feature, they erode the credibility of government regime.**

*Lastly, the mindset of Indians is also contributes to the accumulation of black economy. Of the total of about 1 lakh tones of gold in the world, India accounts for near 25,000 tones. The craze to posses and hold on to gold is rooted in the Indian culture so as to give rise to mafias thriving on smuggling and hawala rackets, and serves as the sheet anchor of black economy.*

## *Impact*

The black economy has grown to such an extent that it has started playing a dominant role in molding the state policies, in changing the structure and composition of output and in promoting a class, which drives its maximum source of power from black money.

**Loss to exchequer...**

The direct effect of the tax evasion is loss to exchequer both from direct and indirect

***“When Vigilance Awareness comes Can the end of Corruption be far behind”.***

taxes. Since the government cannot plug the leakage, it has to resort to other activity like borrowing or throwing tax burden further on honest taxpayer. So while the tax paying public finds its own income falling, the non-tax paying public is having a free run of swelling concealed incomes thereby adding new dimension to the problem of income and wealth, resulting in regressive tax structure.

The various reforms introduced by the government to simplify the tax structure cannot alter the sad tax to GDP ratio. **In fact it was recently pointed out in a discussion presided over by Dr Manmohan Singh, that the tax-GDP ratio has decreased sharply since the reforms.**

#### **Shifts in consumption pattern...**

It can be argued that black money is beneficial in away that it increases the demand. True, but the commodities for which the investment is increased belong to the category of non-essential goods of conspicuous consumption like jewelry, bullion etc. This has a *demonstration effect* on all classes of society. Consequently the consumption pattern is shifted to in favour of elite class at the cost of goods of mass consumption.

Further it also leads to purchase of real goods and investment in luxury housing. Flow of black money in this sector causes large-scale under valuation of property. This also pushes the prices of land to astronomical heights. Besides loss on revenue, the phenomenon causes middle class being priced out of purchase of land.

Mr Kabra states that tax evasion, which involves cheating the state exchequer, is a small proportion of the black economy. According to him, black income is generated to a large extent through false invoicing, undeclared commissions in sale and purchase in the corporate sector.

#### **Liquidity...**

This is popularly termed as “black liquidity”. Thus whenever the government tries to control excess demand with the measures of credit controller or rationing, such attempts are frustrated by the huge liquidity provided by the black economy. Also, the liquidity results in heavy inventory build-up, which threatens the price stability.

*However, it can be argued that black economy can have a positive impact on liquidity. Many of the assets are unproductive in nature whose declaration does not alter the production process in the economy and does not effect income generation. Hence no direct impact may be expected. Those declaring their black assets have to generate funds from current activities, black or white, to pay the tax. Indirectly, the payment of tax on these assets requires funds, so liquidity is squeezed*

***“Even when there is no law there is conscience” – PUBLICIUS SYRUS***

### Competitive edge...

Remarks Mr Kabra, ``Black income, earned from tax evasion or by bypassing the law, provides a competitive edge in the market. It serves as arsenal against rivals''.

*Those in control can retain profits made in the black economy, while other shareholders need to be satisfied with the official profits. The divergence of interests between the controlling shareholders and other shareholders is thus quite significant. But trying to correct this distortion by providing minority shareholders a place on the board may well be a remedy that is worse than the disease.*

### Clandestine transfer...

Such transfers are made possible by regulations through the device of under voicing. Of exports and lower voicing of imports. The country thus finds itself in a paradoxical situation here capital is more scarce becomes a de facto lender of a wealthier nations, with concealed outflow of funds. Such outflows of funds also occur not only during the projects del but also during defence deals. According to World Bank estimate a flight of Rs 50-100 crore accompanies every deal.[\[3\]](#)

[1] Ruder Dutt and Sunderam, pg no 333.

### Social effect

"...We might be alive to the fact that "black incomes" are accentuating the inequalities in income and wealth and breeding a new class of "black rich" in a society which is already harshly stratified. The inequalities are no longer below the surface. The conspicuous consumption of the new "black" rich, their vulgar display of pomp and opulence, their unlimited accessibility to finance, their nest eggs at various places and countries, their influence at important places, all these are now of common knowledge," states Mr. D.K.Ranglekar. Thus, the black economy contradicts the basic socialistic principles of Indian Government.

The black money has also corrupted the political system of India in most vicious manner. **It is no secret that Indian elections are financed primarily through black money.**

At all levels, ministers, party functionaries, MLAs, MPs, collect funds. The national policies are doled out in favour of big businessmen under the pressure of black money.

Further the opacity with which political collections are made that brings in the mafia. With criminals are entering the state, rather than the state protecting society from criminals, the entire trust that should exist between the government and the taxpayers vanishes.

***“The Honest need no props. The corrupt need accomplices.”***

### *Control*

Considering the size of the black economy and that it was expanding rapidly, the Planning Commission first proposed that unearthing black income could be a rich source of funds for development expenditure.

The National Development Council endorsed this when it met to approve the approach paper to the Ninth Plan. The subject of tapping the parallel economy was also discussed with industrialists in their meeting with the then Prime Minister H D Deve Gowda on December 31, 1996.

Rationalizing the tax structure is one of the first cited controls. The government has been permitting more and more deductions year after year. However, lower tax rates must go hand in hand with more efficient and effective tax enforcement. Else our direct tax/GDP ratio (which is still an abysmal 3 per cent) is not likely to improve.

Demonetization comes next. In spite of the negative multiplier effect Kabra advocates periodic recourse to demonetization it has.

The schemes like VDIS has revealed just a tiny fraction of the vast hoard of black wealth accumulated by the Indian elite. They fail to strike at the root of the process of the black income generation.

The government should concentrate on computerization, which is proceeding very slowly. James Wilson, who was editor of The Economist, introduced the idea of income tax in 1860. Now, 140 years later, India does not have a complete list of income tax payers in one place and in a central computer. Each income tax office may have a list, but there is no comprehensive list. They're not using computers for processing returns. There are many leakages in the system.

**E-commerce can be conducive to black economy. It is conducive for the black economy. It solves the two major problems of black marketers hoarding and moving money.**

Further, the government will have to sit up and take notice of to curb these, things like taxes, customs, excise levies, jurisdiction of transactions have to be thrashed out.

*ˆ To conclude*

The government should collect more money through legal means. This is possible. We can easily increase the number of assesses if we improve the administration and the administrators. **Even with a low tax rate, there is an incentive to evade if tax administration is lax.**

Until there is a strong tax enforcement mechanism, there is unlikely to be a check on the growth of black income. Reduction in tax rates or amnesty schemes can achieve little. The government should also create confidence in the citizen that the tax revenue will be utilized well to develop infrastructure and basic services. Even the removal of controls on economic activity is, by itself, not enough to check the growth of black money

*“Power Corrupts the few while weakness corrupts the many.” – ERIC HOFFER*

Experts point out that if black money has to be unearthed and channeled for social infrastructure, there is need for effective enforcement of laws by the government and a tax administration that closely monitors economic activity across sectors.

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\*\*\*\*\*End of the Report\*\*\*\*\*

***“You shall not take bribe for a bribe Blinds the eyes of the Wise and Subverts the cause of the Righteous” --- BIBLE***

# Corruption-busters lose punch in Italy

Italy's special investigating unit to uncover political rot seems to be reaching its "sell-by" date, seven years after being launched.

Operation Clean Hands (Mani Pulite), Italy's high-profile anti-corruption drive launched seven years ago, is dying a death, say the Milan-based judges who have been leading the investigations.

The one-time heroes of the battle against the rotten core of Italy's political system have for the past few days been complaining wearily to the press of the trouble they are having making any progress.

For the judges, it is "the end of a magical era".

"Operation Clean Hands is over and it has been that way since 1994," said Gerardo D'Ambrosio, chief prosecutor at Milan's anti-corruption court, quoted in several newspapers.

"From 1992 to 1994 the investigations enjoyed the collaboration of businessmen and a general climate of interest and spontaneous support, based on public indignation over what had been uncovered.

"Today, where are the lines of businessmen queuing up to confess, or even the tons of faxes expressing support? Those times are well and truly over," said D'Ambrosio.

Operation Clean Hands, launched in 1992, sent a shockwave through Italian society, tracing a fault-line of corruption that led right up to the most senior political figures.

Those convicted include former socialist prime minister Bettino Craxi, who in 1994 fled to Tunisia.

Former premier, now opposition leader media magnate Silvio Berlusconi has also been convicted of corruption, but remains a free man while appealing the charges through Italy's painfully slow legal system.

The reputations of the Socialists and the Christian Democrats -- who between them have dominated Italy's volatile post-war political scene -- have also been tarnished by what the investigations brought to light.

Today however, Milan's judges are no longer treated like heroes.

When in July 1998, Berlusconi was sentenced on yet another corruption charge, he appeared on all three of his television channels to denounce the "communist judges" who, he swore, were out to get him.

The influential La Stampa newspaper gave a more nuanced view, saying Italy was split in two: between those who applauded the decision and those who deplored it.

But even Italian President Oscar Luigi Scalfaro was moved to suggest that the judges be "more prudent".

Today, the investigations continue, but it is a lot more difficult, say the judges.

"Clean Hands destroyed the system of collusion between the business and political classes, it revealed the illicit financing of parties," D'Ambrosio says.

"But today, interest has waned and our investigations are mired down in the legendary slowness of the justice system."

"The days of the major corruption investigations are over," Gherardo Colombo, one of the Milan judges, told Corriere della Sera newspaper.

"The way the Italian justice system works reinforces the sense of impunity. In this country, it is increasingly difficult not just to get definitive convictions but to conduct an investigation."

In seven years, more than 4000 people have been indicted. Of 3300 trials opened, only 700 have reached their end and a fraction of those charged have been imprisoned.

Craxi is not likely to serve any part of his 20-year jail sentence so long as he remains in self-imposed exile in Tunisia.

Berlusconi, convicted in three separate corruption trials to a total of six years and five months for corruption, illegal financing of parties and tax fraud, is still the leader of Italy's opposition.

So long as the appeals procedure is not exhausted, those convicted can remain at liberty: and in certain cases that process can last 10 years or more.

At the other extreme, some cases risk never getting to court because the statute of limitations for most crimes is 10 years.

Another source of frustration for the Italian judges has been the lack of international co-operation.

"We have sent more than 600 requests for information to 32 countries, and the level of response is about a third," says Colombo.

That is why the departure of Switzerland's attorney general Carla Del Ponte to become chief prosecutor for the UN war crimes tribunals is such bad news for them, adds Colombo.

"For us, Del Ponte has been an important point of reference, and co-operation with her has been very important." -- Sapa-AFP

Bettino Craxi, Italy's longest-serving premier of the postwar years, died Wednesday in Tunisia, where he had fled in disgrace to avoid a prison sentence for corruption. His bitter family refused offers of a state funeral in Italy.

Craxi's lawyer, Giannino Giuso, said the 65-year-old died of a heart attack at his seaside villa in Hammamet, where he settled after fleeing Italy in 1994. Craxi had suffered for years from heart problems and other complications of diabetes.

Craxi's daughter, Stefania, said he would be buried in Tunisia, expressing anger over the way her father had been treated by the political establishment in Italy. She told the Italian media that the family would not accept a state funeral despite reported offers by the Italian government.

"They killed my father," she told Italian television in a telephone interview from Tunisia.

"He was killed by judges who handed down infamous sentences that were full of lies, by friends who turned their backs on him and did not intervene to stop injustices. We will not accept posthumous (praise) from these people," she said.

In November, a [Milan](#) court ruled that Craxi could return to Italy for surgery on condition he serve his corruption sentence under house arrest. Craxi refused. He had a kidney removed in a Tunisian hospital.

"I'd only return as a free man. Any different way, I won't return, not alive nor dead," Craxi said in an interview with RAI, Italian state television.

#### *Longest-serving premier*

Craxi was office from 1983 to 1987, a remarkable feat in a country of "revolving-door" governments.

He defied the United States in 1985, refusing to hand over the Palestinian commandos who had hijacked the Achille Lauro cruise ship and killed an elderly American passenger, Leon Klinghoffer.

He also took on Italy's Communist Party -- the largest Communist Party in the West -- by allowing NATO nuclear-tipped missiles to be installed in Sicily.

However, in the early 1990s, his Socialists, along with the Christian Democrats they ruled with in several coalition governments, were disgraced by the inquiries begun by "Clean Hands" prosecutors in Milan.

Eventually uncovered was a well-oiled system in which businessmen filled party coffers or politicians' pockets with hundreds of millions of dollars in exchange for government deals.

Craxi was convicted in absentia for involvement in the illegal financing of political parties.

But Craxi always maintained that his Socialist Party had done what every other party did and that magistrates wanted to make him a scapegoat. He also claimed he was an innocent victim of a vendetta by jealous politicians.

Two convictions were upheld by Italy's highest criminal appeals court, with sentences of 5 1/2 and 4 1/2 years in corruption cases. Craxi was absolved in three other cases.

A year after Craxi fled Italy, a Milan court declared him a fugitive from justice.

#### *Pope offers prayers*

He was born Benedetto Craxi in Milan on February 24, 1934, the son of a Sicilian lawyer who left that island to migrate north. Craxi dropped out of the University of Milan to enter politics, first getting elected to parliament in 1968. A decade later, Craxi moved his Socialist Party away from the communists and became its leader in 1981.

Treasury Minister Giuliano Amato, a former Socialist, said Craxi's death could have perhaps been avoided if he had returned to Italy for medical treatment.

Vatican spokesman Joaquin Navarro-Valls said Pope John Paul II had heard of Craxi's death and was praying for him and his family. When Craxi was premier in 1984, he presided over a delicate renegotiation of a 1929 treaty that included a major concession from the Vatican that eliminated Roman Catholicism as Italy's official state religion.

Besides his daughter, survivors include Craxi's wife, Anna, and son, Bobo

## Bureaucratic Corruption in Japan

by David T. Johnson

JPRI Working Paper No. 76: April 2001

There is a persistent myth in Japanese studies that politicians are dirty but bureaucrats are clean. Though bureaucrats have been involved in all of the major post-war scandals and have been the primary culprits in many, the myth persists.

-- Steven R. Reed<sup>1</sup>

Nonsense is hard to stomach, no matter who dishes it out, but it is especially distasteful when disingenuously offered up by a government in the guise of an official report. Japan's Foreign Ministry (Gaimusho) recently issued such a report, on a senior official's embezzlement of huge sums from a secret fund ostensibly designed to help diplomats build relations with foreign countries. The official, Katsutoshi Matsuo, headed the Gaimusho's Overseas Visit Support Division between October 1993 and August 1999, where he helped organize trips by prime-ministers, diplomats, and other high-ranking governmental officials. But Matsuo routinely deposited secret Gaimusho funds in his personal bank accounts, from which he then paid for his own trips and trysts with various mistresses. He also purchased eight golf club memberships, five of which together cost 43 million yen, fifteen racehorses for some 140 million yen, and a luxury condominium in Tokyo's Bunkyo ward for a mere 80 million yen. Until his arrest in late January, 2001, Matsuo had obviously been living beyond his salaried means.

The Foreign Ministry's report maintains that Matsuo is a single bad apple in the Gaimusho barrel.<sup>2</sup> But the notion that Matsuo could conduct this massive embezzlement-- measured in millions of dollars-- while other Ministry officials remained unaware and uninvolved is implausible in the extreme. Money is mother's milk for the Ministry, and it stretches credulity beyond the snapping point to suppose that Matsuo is the only official who illicitly stole from the \$47 million (5.6 billion yen) in classified annual funds.

There are three plausible possibilities: Ministry managers either knew about and condoned the crimes, or they were grossly negligent in managing their budget, or both. The Ministry's report is couched in convenient euphemisms that obscure the secret nature of the funds. Its "bad apple" theory is not only incredible; it is also inconsistent with what anonymous Ministry officials have revealed to reporters-- namely, that Japanese diplomats think nothing of using official funds for purposes that have little to do with their work. Indeed, several Gaimusho officials have acknowledged that proficiency in embezzlement is one fast track to success. "The more a non-career official can squeeze cash through

unofficial channels for high-ranking officials to spend freely," one bureaucrat reports, "the more likely it is for that person to be promoted. There are many government officials both inside and outside Japan who could easily become another Matsuo."<sup>3</sup>

Readers of the Japanese press may recall similar revelations about fiscal misconduct in other parts of Japan's bureaucracy. To take only the most troubling example, the creation of slush funds-- uragane-- by cooking the books through illicit accounting-- fusei keiri-- has been practiced for decades by Japan's most powerful administrative agency: the police.<sup>4</sup> Notwithstanding the prevailing view that police in Japan are as pure as the driven snow, the evidence that they misuse tax money is abundant. In 1984, for example, Tadimitsu Matsushashi, a former supervisor of superintendents in the National Police Agency, wrote a book revealing that "police organizations all over Japan are manufacturing slush funds."<sup>5</sup> In subsequent years reporters have documented police slush-fund crimes in Tokyo, Nagoya, Nagasaki, and elsewhere.<sup>6</sup> In just the last two years, emboldened by revelations in several police scandals, ex-cops have authored books documenting how police organizations systematically divert money from their budgets to cover under-the-table transfers to senior police officials and to pay for gifts, entertainment, and other illicit purposes.<sup>7</sup>

Then there were the Ministry of Finance (MOF) wining-and-dining scandals that were uncovered in 1997-98. Although the subsequent investigations revealed that hundreds of MOF officials engaged in illegal and unseemly acts, precisely one official on the elite career track was charged with a crime. Internally, MOF itself disciplined at least 112 officials, but the punishments were light and were directed only against personnel who accepted entertainment from financial institutions and insurance companies. Budget Bureau officials who were wined and dined by bureaucrats from other agencies (kankan settai) got off scot-free.<sup>8</sup>

### **Police Corruption**

Police corruption is a double problem: it reinforces a culture of secrecy and deceit that is itself a breeding ground for police abuses ranging from perjury to brutality, and it prevents police from properly enforcing criminal laws against other bureaucratic wrongdoers. Police responses to allegations of misconduct take two main forms. Usually they attempt to "kill complaints with silence" (mokusatsu suru), in large part because police managers strictly enforce a code of silence against their subordinates. As former Tokyo Metropolitan Police officer Akio Kuroki has written, cops who tell tales out of class, no matter how truthful, are certain to suffer severe career consequences.<sup>9</sup>

When silence fails to quell the criticism the police resort to their second strategy: they issue nonsensical "reports" of the kind the Foreign Ministry recently produced. These reports pin police problems on one or a few individuals, thereby denying the need for

change in the police's organizational culture and the need for creating external organs that would hold police more accountable for how they spend their huge budget and exercise their formidable powers.

In December 2000, Japan's Management and Coordination Agency finally said enough is enough. For the first time in the postwar period it conducted an administrative inspection of the police and issued a report and advisory of its own. The latter mandates that police redo their inquiry into police misconduct and produce another report, minus the nonsense.<sup>10</sup> Time will tell whether the police comply. I am hopeful but not optimistic. There is plenty of reason for pessimism. At the end of the year 2000, for example, during which Japan had experienced an unprecedented number of police scandals, the Asahi Shimbun surveyed thirteen prefectural police departments in order to ask what they considered the year's top ten news stories from their respective beats. Almost all the departments responded with resounding success stories, from big cases cracked to well-run security at official events. As one cop critic succinctly summarizes the situation, everyone fears the police but the police fear no one.<sup>11</sup>

### **Lessons**

There are at least two lessons to be learned from these tales of bureaucratic corruption. First, it appears that students of Japan-- and academics especially-- have been mistaken about one big fact concerning that country's leaders. We knew that politicians were dirty, but we also believed that bureaucrats were unsullied by the grime of crime and corruption. We were wrong.

Second, the opaqueness of decision-making in Japan's bureaucracy is a recipe for robbery of the taxpayers' money. This, more than anything, is the thread that connects abuses in the Foreign and Finance Ministries and in various police departments. The treatment for this disease arises directly from the diagnosis. Transparency must be the first and biggest plank in any platform proposing to solve government graft.

There is good news and bad news about the prospects for reform. The good news is that in April 2001, when Japan's new freedom of information act goes into effect, disclosure of how taxpayers' money is spent will become, in principle, the rule. This law is long overdue. The bad news comes in two installments. First, the police remain, in crucial respects, "beyond the scope" of the new law's purview. Even in Miyagi prefecture, where the citizens' ombudsman has fought valiantly for greater police openness, the government eventually capitulated to almost all police demands for sustained secrecy. The closure of police and diplomatic budgets to outside scrutiny is a problem to which the answer is known. Unfortunately, the political will to implement the answer is absent.<sup>12</sup>

There is more bad news. The new freedom of information law, like the many laws already on the books that could be used to target financial improprieties, will be only as strong as its enforcers are skillful and vigorous. Judging from recent history, there is more than ample reason to believe that the big gap between "the law on the books" and "the law in action" will continue to yawn wide even after the new law goes into effect. For example, the Board of Audit (Kaikai Kenshin), which is constitutionally charged with overseeing how tax money is spent, has been singularly unwilling to follow any of the many leads it has had into police slush funds and illegal accounting. Indeed, every year for the last half-century the Board has exposed not a single case of improper police accounting.<sup>13</sup>

The Prosecutors' Office has done no better. Between 1980 and early 1999, prosecutors had received eleven complaints about illegal accounting in various administrative agencies (these are just the complaints they accepted; prosecutors refused to hear many more). Of the nine cases prosecutors have decided so far, all ended in "no indictment."<sup>14</sup> It appears that leniency in the procuracy arises in part because prosecutors create and misuse slush funds as much as other bureaucrats do. For instance, investigative reporters for a Japanese monthly magazine recently revealed that the procuracy receives about two million dollars each year for special "information gathering" and "investigative activities." These funds are known as chosa katsudohi, or chokatsu for short, and neither prosecutors nor their bosses in the Ministry of Justice are obligated to divulge how the money is spent.

Reporters found that Shunsuke Kano, the current chief prosecutor (kenjisei) of the Osaka District Prosecutors Office, embezzled thirty to fifty thousand dollars from this account when he was chief prosecutor of the Kochi District Prosecutors Office between July 1995 and July 1996. Kano is said to have spent the money on meals at high-class restaurants, entertainment at bars and nightclubs, and golf. As in the police department, this misspent money was mobilized by subordinates who concealed it in a second set of account books. And as in the police department, embezzlement resulted in excessive leniency toward other white-collar offenders.

In May 2000, after a three-year investigation into alleged embezzlement by twenty-five officials in the Osaka prefectural government, prosecutors in Osaka found "insufficient evidence" to indict three of the twenty-five officials but adequate proof to charge the other twenty-two with crimes. However, none was indicted. "In consideration of extenuating circumstances" (the embezzlers returned the stolen loot during the course of the investigation) prosecutors suspended charges (kiso yuyo) against all the wrongdoers. Front-line prosecutors wanted to proceed to trial but their boss-- the same Kano-- killed the cases. In the procuracy, as in the police department, corruption debases justice.<sup>15</sup>

## **Conclusion**

Students of Japanese government disagree over the prospects for purifying a system that has been characterized as "rotten to the core."<sup>16</sup> Some contend that "there is far less corruption now than there was in the past" and predict that corruption is "almost certain to continue to decline in importance" in years to come.<sup>17</sup> Others argue that corruption "will continue to flourish in Japan" because its cultural roots are deeply imbedded in government and society.<sup>18</sup> I doubt that corruption in the bureaucracy has declined. If anything, the number and seriousness of bureaucratic scandals have increased during the last decade (although the relationship between "corruption revealed" and "real corruption" is famously difficult to discern). Whatever the long-range realities, one may still ask who, ultimately, is responsible for the dirty messes Japan's government so frequently finds itself in. For me at least, this question admits no easy answer.

According to one popular view, if the Board of Audit, prosecutors, police, and various ministries are misusing or tolerating the misuse of taxpayers' money, they are able to do so because of a permissive public, apathetic voters, and timorous media. It follows that if Japan is a democracy that affords its citizens ample means of expressing their preferences, then voters have only themselves to blame for the present state of their government. But this analysis begs the question: Is Japan that kind of democracy and are voters to blame?

Consider that at the beginning of 2001, only 9 percent of Japanese adults had confidence in their Diet and only 8 percent had confidence in their national bureaucracy. The comparable figures for the United States, where trust in government is hardly a venerated tradition, were 63 and 51 percent. Moreover, according to a survey jointly conducted late last year by the Yomiuri Shimbun and the Gallup Organization, 75 percent of U.S. voters said they have been able to get their opinions heard in their nation's politics. In contrast, a scant 10 percent of Japanese voters thought likewise. It appears that many Japanese citizens feel utterly alienated from government, particularly citizens living in urban areas, where representation in the Diet does not reflect population strength. Japan's electoral system remains badly malapportioned, as it has throughout the postwar period. In single-seat constituencies in the most recent Lower House election (June 25, 2000), the Liberal Democratic Party won 60 percent of the seats with only 40 percent of the vote.

However, there is compelling evidence that the public's crisis of confidence in government is best explained not by malapportionment, nor by Japan's moribund economy, but by perceptions of misconduct in government. In short, the more people learn about their leaders' misconduct in office, the lower their faith and trust in government.<sup>19</sup> Despite this it remains to be seen whether the public's deep discontent with government will usher in a period of real reform of Japan's corrupt bureaucracy.

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## Fourth Meeting of the Anti-Corruption Advisory Group



Opening Remarks by Mr. Jemal-ud-din Kassum, Vice President, East Asia and Pacific Region March 16, 2001 Bangkok, Thailand Ladies and Gentlemen, Colleagues, I would like to extend a warm welcome to all of you, and especially our Advisors to the Fourth meeting of this Advisory Group. I am delighted that we are convening again after over a year. I was very keen that we should meet in the fall of 2000, as originally planned, but we had some difficulty putting together a quorum on suitable dates. So, I am very grateful that you have taken the trouble to be with us today, given the very many pressing claims on your time.

As you know, this is my first encounter with this Advisory Group. But, fortunately, I know or have met most of you before in my previous incarnation with IFC or in my current assignment with the Bank. Let me say how much I am looking forward to getting to know all of you better. I share your passion and commitment to the cause of bringing greater integrity to the public and private sectors in the countries we work with, and I would like to try to ensure that the Bank, in East Asia, is seen always as part of the solution and not part of the problem.

We all owe Jean Michel Severino and Katherine Marshall a debt of gratitude for bringing this very impressive group of advisors together. The fact that we have this large turnout from the Bank side is itself an indicator of your reputation in the Bank. We have enjoyed this interaction in the past, and learnt much from it, and we will listen carefully to your valuable advice today and tomorrow.

At the time the Group was established, we had just begun to absorb the lessons of the financial crisis, and high among the lessons learnt was that weak governance, weak institutions and corrupt governments had played a key role in limiting the effectiveness of policy responses to the crisis. Peter Eigen's Transparency International indicators tell the story: Indonesia, Vietnam, Philippines, China and Thailand, rank in the bottom half of the world's corruption league. That is why, shortly after taking over as Vice President a year ago I put building institutional capacity and anti-corruption and governance as two of the key challenges facing the region. Other challenges included revitalizing the business sector, the social agenda,

environmental degradation and urbanization, and managing globalization.

I don't need to remind anyone in this room that till the onset of the crisis, the Bank had taken a rather low profile on issues of governance and corruption in the region. The region's remarkable success in reducing poverty and ensuring rapid growth caused most of those who worked on East Asia to understate the importance of good governance in the sustainability of this success. This advisory group has, I believe, guided the Bank through a difficult transition from being seen at the height of the crisis as being part of the problem, to trying very hard to become part of the solution. We are now speaking up and hopefully contributing in a constructive way to the great public debate raging in the region on this issue.

Over the past couple of years, we have moved aggressively on two fronts: first we have tried to put **governance and corruption** issues front and center in our dialogue with Governments, and in our public engagement. We hope this is sending a clear message that this is not just a "flavor of the month", but an integral part of the development process.

- We have been joining and helping build partnerships and coalitions in the fight against corruption. Your advice in previous meetings encouraged us to "lead from behind" and to actively seek cooperation with others. The Partnership for Governance Reforms in Indonesia, led by Indonesians, which Mark will touch upon tomorrow, represents the most comprehensive effort of this kind, but there are variants in many countries.

- We are helping to build the institutions that are critical to an effective fight against corruption, including civil services, the judiciary, etc. In the longer run, it is these institutions that must provide an effective answer to corruption. Lack of credible legal and law enforcement institutions is a severe impediment to anti-corruption work in many of our countries. In the former socialist economies, the penalties for alleged corruption can be very steep indeed as governments attempt to respond to public concern about corruption, and the issue then becomes the absence of the rule of law in its broadest sense, and the failure of the court system to protect the rights of the accused.

- We are supporting a number of anti-corruption watchdog institutions in several countries including Thailand, and encouraging and supporting civil society organizations in their fight against corruption

- We are undertaking a great deal of analytical and advisory work including sponsoring diagnostic surveys on anti-corruption, providing high level advice in the Philippines and, with Robert Klitgaard, recently in East Timor. We are attempting to better understand the political economy of anti-corruption efforts, through more rigorous stakeholder analysis. Some of our analytical work is feeding the Bank's Global Distance Learning Network and connecting people in the region and elsewhere on

these issues, and we will hear more about this tomorrow from Vinay.

Second, we have been moving in many countries to strengthen **the Bank's own fiduciary controls**. This effort is in three parts:

- On the *macro-environment* within which our projects are implemented, recognizing that ring fencing our operations can only get us so far, we have been carrying out country procurement and financial accountability assessments, public expenditure reviews, etc. and thus developing and helping to implement reform agendas in these areas.
- At the level of our *individual projects*, tightening up on our own procedures both through better ex ante assessments of institutions we are supporting and through increased attention in project supervision to such issues as ex-post procurement, follow up on audits etc.
- At the level of strengthening the *Bank's capacity* to address these issues, we are putting more teeth in the message that the Bank is serious about corruption through the new Fraud and Corruption Investigation Unit. This unit receives and investigates allegations of corruption in Bank projects both from Bank staff and outsiders.

While all this represents a big change from the past, we are all too aware that this is going to be a long haul. It is not yet clear to us that we have sufficiently coherent and effective strategies to fight corruption or have identified the critical path to anti-corruption reforms. In your discussions in Singapore, I understand there was some discussion on the pros and cons of quick wins. But I am not sure whether we have yet a good handle on how we measure success and I will be listening closely with you tomorrow to my colleagues to see if they think they have something to report by way of success at this 'big picture' level.

Our efforts to address the broader issue of helping governments strengthen their own fiduciary controls has shown mixed results in our countries. From my bird's eye view of these issues, I don't yet detect the kind of across the board political commitment in the region to these issues that would help us move aggressively in this area. One question we should be asking ourselves is whether we are doing enough 'due diligence' analytical work to help governments face up to these issues.

Certainly, at the more 'micro' level of our own activities, in the area of fiduciary controls we feel somewhat vulnerable. For sure, we are paying more attention to procurement complaints, but not yet meeting Bank wide standards on ex post review of procurement documents. Similarly, we are beginning to be more systematic in following up on audits, but the quality of audits from state agencies is still rather low. At the same time, we may need to find new and more cost-effective ways of

supervising procurement and carrying out audits in our projects, especially in, what is for us, a very decentralized environment.

All this comes at a time when the region is clearly still in various stages of major political, social and economic transitions. Globalization and the information revolution is bringing changes in the way in which people and governments interact. We have seen people's power at work in Indonesia and the Philippines. People's tolerance for corruption, particularly large scale corruption, appears to be coming down, particularly in more open societies. We have seen two governments fall, with corruption part of the explanation for their fall. And today, President Wahid faces corruption charges from Parliament. Corruption has also surfaced as a major issue in China and Vietnam.

The **agenda** for today and tomorrow is shaped by this background. We are putting two items on the agenda for your advice. These are hot operational issues we face in many of our countries, and it is important not only that we position the Bank right but also that we do and are seen to be doing the right thing.

The first issue relates to **political transition**. In the Philippines, we faced difficult issues in managing our anti-corruption work while dealing with a government who's credentials on this issue were getting progressively frayed. How do we manage the right distance from our principal client, the government? In Indonesia, we face the problem that our close identification in the public mind with the Suharto regime has greatly diminished our credibility on anti-corruption issues, and is indeed resulting in a systematic campaign supported by international NGOs for cancellation of what they perceive as 'odious' or 'criminal' debt. The Bank's new Country Assistance Strategy on Indonesia tries to address this issue. And in China, what we do, or do not do, today may create legacy problems for us in the future.

The second issue goes down many levels to look at how we are **managing operational risks** on a day to day basis. Given corrupt environments we are dealing with, we have to recognize that with the best will in the world it will be difficult absolutely to prevent diversion of resources from ultimate beneficiaries. How do we manage such risks? Where do we draw the line between what is an acceptable level of risk and what is not? And how do we persuade our critics that there is some level of risk that is acceptable? Are there things we could be doing in the broader war against corruption that would mitigate these risks?

As you can see, the issues we are posing are getting into the heart of our operational work. As I see it, this is a natural evolution of this Group's work. When the Group first met in Washington, I understand the focus was on the "why and the what", in Singapore, you were still in a "what" mode, on such issues as culture, the role of the

media, of transparency, etc.. In Bangkok, a year ago, we were getting into the "how mode". The focus was on the role of the private sector and corruption, and on the importance of partnerships. This time, we get a step closer to the nuts and bolts of the Bank's business and management of reputation risks: namely first, and most important, handling our overall relations with Governments, and second, our specific operational activities.

When we finish tomorrow, it would be good if we stepped back in the last session to ask **where does this group go next?** Is this exercise worth pursuing further? Is the composition of the group right in terms of a transition to much more of this nuts and bolts advice, or, given the continuing importance of the big picture issues, should we be doing what Bowman Cutter had proposed in the Washington meeting when the group was launched, which was to create a two-tiered group, with the second tier being much more hands-on and providing "on-line" support to our country teams. I urge us all to discuss this openly and freely tomorrow so that we can continue to be productive.

Finally, may I suggest that as you listen and contribute to tomorrow's discussion and respond to the questions that will be posed to you, that you think of:

- The two or three major trends we are likely to see over the next few years in the global environment affecting the fight against corruption in the region (such as, people's power, information technology, decentralization),
- The two or three things that each of you think governments could be doing or doing better to use these mega-trends in their fight against corruption, and
- The two or three things that the Bank could be doing to help governments and countries in the region to this end.

I will ask each one of our Advisors to respond on these issues at our closing session tomorrow.

Thank you, and thanks again for being here.

## The Code of Hammurabi [18th Century BCE]

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Of the several law codes surviving from the ancient Middle East, the most famous after the Hebrew Torah is the Code of Hammurabi, sixth king of the Amorite Dynasty of Old Babylon. It is best known from a beautifully engraved diorite stela now in the Louvre Museum which also depicts the king receiving the law from Shamash, the god of justice. This copy was made long after Hammurabi's time, and it is clear that his was a long-lasting contribution to Mesopotamian civilization. It encodes many laws which had probably evolved over a long period of time, but is interesting to the general reader because of what it tells us about the attitudes and daily lives of the ancient Babylonians. In the following selection, most of the long prologue praising Hammurabi's power and wisdom is omitted.

What do these laws tell us about attitudes toward slavery? What indication is there that some Babylonian women engaged in business? Clearly men had more rights than women in this society; but what laws can you identify that seem aimed at protecting certain rights of women? Which laws deviate from the egalitarian standard of "an eye for an eye and a tooth for a tooth?" What qualities does this text say a ruler should have to enable him to write new laws?

. . . Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land, to destroy the wicked and the evil-doers; so that the strong should not harm the weak; so that I should rule over the black-headed people like Shamash, and enlighten the land, to further the well-being of mankind. . . .

15: If any one take a male or female slave of the court, or a male or female slave of a freed man, outside the city gates [to escape], he shall be put to death.

16: If any one receive into his house a runaway male or female slave of the court, or of a freedman, and does not bring it out at the public proclamation of the [police], the master of the house shall be put to death.

53: If any one be too lazy to keep his dam in proper condition, and does not so keep it; if then the dam break and all the fields be flooded, then shall he in whose dam the break occurred be sold for money, and the money shall replace the [grain] which he has caused to be ruined.

54: If he be not able to replace the [grain], then he and his possessions shall be divided among the farmers whose corn he has flooded.

108: If a [woman wine-seller] does not accept [grain] according to gross weight in payment of drink, but takes money, and the price of the drink is less than that of the corn, she shall be convicted and [thrown into the water. \(1\)](#)

109: If conspirators meet in the house of a [woman wine-seller], and these conspirators are not captured and delivered to the court, the [wine-seller] shall be put to death.

110: If a "sister of a god"[nun] open a tavern, or enter a tavern to drink, then shall this woman be burned to death.

129: If a man's wife be surprised [having intercourse] with another man, both shall be tied and thrown into the water, but the husband may pardon his wife and the king his slaves.

130: If a man violate the wife (betrothed or child-wife) of another man, who has never known a man, and still lives in her father's house, and sleep with her and be surprised [caught], this man shall be put to death, but the wife is blameless.

131: If a man bring a charge against [his] wife, but she is not surprised with another man, she must take an oath and then may return to her house.

132: If the "finger is pointed" at a man's wife about another man, but she is not caught sleeping with the other man, [she shall jump into the river for \[the sake of her\] husband. \(2\)](#)

138: If a man wishes to separate from his wife who has borne him no children, he shall give her the amount of her purchase money and the dowry which she brought from her father's house, and let her go.

141: If a man's wife, who lives in his house, wishes to leave it, plunges into debt [to go into business], tries to ruin her house, neglects her husband, and is judicially convicted: if her husband offer her release, she may go on her way, and he gives her nothing as a gift of release. If her husband does not wish to release her, and if he take another wife, she shall remain as servant in her husband's house.

142: If a woman quarrel with her husband, and say: "You are not congenial to me," the reasons for her prejudice must be presented. If she is guiltless, and there is no fault on her part, but he leaves and neglects her, then no guilt attaches to this woman, [she shall take her dowry and go back to her father's house. \(3\)](#)

143: If she is not innocent, but leaves her husband, and ruins her house, neglecting her husband, this woman shall be cast into the water.

195: [If a son strike his father, his hands shall be \[cut\] off. \(4\)](#)

196: [If a \[noble-\]man put out the eye of another \[noble-\]man, his eye shall be put out. \(5\)](#)

197: If he break another [noble-]man's bone, his bone shall be broken.

198: If he put out the eye of a [commoner], or break the bone of a [commoner], he shall pay one [silver] mina.

199: If he put out the eye of a man's slave, or break the bone of a man's slave, he shall pay one-half of its value.

200: If a man knock out the teeth of his equal, his teeth shall be knocked out.

201: If he knock out the teeth of a [commoner], he shall pay one-third of a [silver] mina.

In future time, through all coming generations, let the king, who may be in the land, observe the words of righteousness which I have written on my monument; let him not alter the law of the land which I have given, the edicts which I have enacted; my monument let him not mar. If such a ruler have wisdom, and be able to keep his land in order, he shall observe the words which I have written in this inscription; the rule, statute, and law of the land which I have given; the decisions which I have made will this inscription show him; let him rule his subjects accordingly, speak justice to them, give right decisions, root out the miscreants and criminals from this land, and grant prosperity to his subjects.

Hammurabi, the king of righteousness, on whom Shamash has conferred right (or law) am I. My words are well considered; my deeds are not equaled; to bring low those that were high; to humble the proud, to expel insolence.

Translated by L. W. King (1915), edited by Paul Briant.

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(1) This refers to a practice known as trial by ordeal which has been commonplace in many cultures, including Medieval Europe. It was believed that the Euphrates River would act as judge of people accused of various crimes. If, when thrown into the river, the accused floated, she was considered innocent; but if she sank, the river had found her guilty. For an interesting instance of a different trial by ordeal in ancient Hebrew law, see Numbers 5:11-31.

(2) I. e. to prove her innocence.

(3) The right of women to initiate divorce proceedings is extremely rare in ancient civilizations.

(4) Cf. Hebrew law, which prescribes the death penalty for such an act (Exodus 21:15) and extends its scope to mothers.

(5) Note how punishments are administered according to the social status of the attacker and the victim. "Equality before the law" is a rare concept in ancient times.



*The Avalon Project*

*at Yale Law School*

*The Code of Hammurabi*

*Translated by L. W. King*

When [Anu the Sublime](#), King of the [Anunaki](#), and [Bel](#), the lord of Heaven and earth, who decreed the fate of the land, assigned to [Marduk](#), the over-ruling son of [Ea](#), God of righteousness, dominion over earthly man, and made him great among the [Iqigi](#), they called [Babylon](#) by his illustrious name, made it great on earth, and founded an everlasting kingdom in it, whose foundations are laid so solidly as those of heaven and earth; then [Anu](#) and [Bel](#) called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land, to destroy the wicked and the evil-doers; so that the strong should not harm the weak; so that I should rule over the black-headed people like [Shamash](#), and enlighten the land, to further the well-being of mankind.

Hammurabi, the prince, called of [Bel](#) am I, making riches and increase, enriching [Nippur](#) and [Dur-ilu](#) beyond compare, sublime patron of [E-kur](#); who reestablished [Eridu](#) and purified the worship of [E-apsu](#); who conquered the four quarters of the world, made great the name of [Babylon](#), rejoiced the heart of [Marduk](#), his lord who daily pays his devotions in [Saggil](#); the royal scion whom [Sin](#) made; who enriched [Ur](#); the humble, the reverent, who brings wealth to [Gish-shir-gal](#); the white king, heard of [Shamash](#), the mighty, who again laid the foundations of [Sippara](#); who clothed the gravestones of [Malkat](#) with green; who made [E-babbar](#) great, which is like the heavens, the warrior who guarded [Larsa](#) and renewed [E-babbar](#), with [Shamash](#) as his helper; the lord who granted new life to [Uruk](#), who brought plenteous water to its inhabitants, raised the head of E-anna, and perfected the beauty of [Anu](#) and [Nana](#); shield of the land, who reunited the scattered inhabitants of [Isin](#); who richly endowed [E-gal-mach](#); the protecting king of the city, brother of the god [Zamama](#); who firmly founded the farms of [Kish](#), crowned [E-me-te-ursag](#) with glory, redoubled the great holy treasures of [Nana](#), managed the temple of [Harsag-kalama](#); the grave of the enemy, whose help brought about the victory; who increased the power

of [Cuthah](#); made all glorious in [E-shidlam](#), the black steer, who gored the enemy; beloved of the god [Nebo](#), who rejoiced the inhabitants of [Borsippa](#), the Sublime; who is indefatigable for [E-zida](#); the divine king of the city; the White, Wise; who broadened the fields of [Dilbat](#), who heaped up the harvests for [Urash](#); the Mighty, the lord to whom come scepter and crown, with which he clothes himself; the Elect of [Ma-ma](#); who fixed the temple bounds of [Kesh](#), who made rich the holy feasts of [Nin-tu](#); the provident, solicitous, who provided food and drink for [Lagash](#) and [Girsu](#), who provided large sacrificial offerings for the temple of [Ningirsu](#); who captured the enemy, the Elect of the oracle who fulfilled the prediction of [Hallab](#), who rejoiced the heart of [Anunit](#); the pure prince, whose prayer is accepted by [Adad](#); who satisfied the heart of [Adad](#), the warrior, in [Karkar](#), who restored the vessels for worship in [E-ud-gal-gal](#); the king who granted life to the city of [Adab](#); the guide of [E-mach](#); the princely king of the city, the irresistible warrior, who granted life to the inhabitants of [Mashkanshabri](#), and brought abundance to the temple of [Shidlam](#); the White, Potent, who penetrated the secret cave of the bandits, saved the inhabitants of [Malka](#) from misfortune, and fixed their home fast in wealth; who established pure sacrificial gifts for [Ea](#) and [Dam-gal-nun-na](#), who made his kingdom everlastingly great; the princely king of the city, who subjected the districts on the [Ud-kib-nun-na](#) Canal to the sway of [Dagon](#), his Creator; who spared the inhabitants of [Mera](#) and [Tutul](#); the sublime prince, who makes the face of [Ninni](#) shine; who presents holy meals to the divinity of [Nin-a-zu](#), who cared for its inhabitants in their need, provided a portion for them in Babylon in peace; the shepherd of the oppressed and of the slaves; whose deeds find favor before [Anunit](#), who provided for [Anunit](#) in the temple of [Dumash](#) in the suburb of [Agade](#); who recognizes the right, who rules by law; who gave back to the city of [Ashur](#) its protecting god; who let the name of [Ishtar](#) of [Nineveh](#) remain in [E-mish-mish](#); the Sublime, who humbles himself before the great gods; successor of [Sumula-il](#); the mighty son of [Sin-muballit](#); the royal scion of Eternity; the mighty monarch, the sun of [Babylon](#), whose rays shed light over the land of [Sumer](#) and [Akkad](#); the king, obeyed by the four quarters of the world; Beloved of [Ninni](#), am I.

When [Marduk](#) sent me to rule over men, to give the protection of right to the land, I did right and righteousness in . . . , and brought about the well-being of the oppressed.

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#### CODE OF LAWS

1. If any one ensnare another, putting a ban upon him, but he can not prove it, then he that ensnared him shall be put to death.

2. If any one bring an accusation against a man, and the accused go to the river and leap into the river, if he sink in the river his accuser shall take possession of his house. But if the river prove that the accused is not guilty, and he escape unhurt, then he who had brought the accusation shall be put to death, while he who leaped into the river shall take possession of the house that had belonged to his accuser.

3. If any one bring an accusation of any crime before the elders, and does not prove what he has charged, he shall, if it be a capital offense charged, be put to death.

4. If he satisfy the elders to impose a fine of grain or money, he shall receive the fine that the action produces.

5. If a judge try a case, reach a decision, and present his judgment in writing; if later error shall appear in his decision, and it be through his own fault, then he shall pay twelve times the fine set by him in the case, and he shall be publicly removed from the judge's bench, and never again shall he sit there to render judgement.

6. If any one steal the property of a temple or of the court, he shall be put to death, and also the one who receives the stolen thing from him shall be put to death.

7. If any one buy from the son or the slave of another man, without witnesses or a contract, silver or gold, a male or female slave, an ox or a sheep, an ass or anything, or if he take it in charge, he is considered a thief and shall be put to death.

8. If any one steal cattle or sheep, or an ass, or a pig or a goat, if it belong to a god or to the court, the thief shall pay thirtyfold therefor; if they belonged to a freed man of the king he shall pay tenfold; if the thief has nothing with which to pay he shall be put to death.

9. If any one lose an article, and find it in the possession of another: if the person in whose possession the thing is found say "A merchant sold it to me, I paid for it before witnesses," and if the owner of the thing say, "I will bring witnesses who know my property," then shall the purchaser bring the merchant who sold it to him, and the witnesses before whom he bought it, and the owner shall bring witnesses who can identify his property. The judge shall examine their testimony--both of the witnesses before whom the price was paid, and of the witnesses who identify the lost article on oath. The merchant is then

proved to be a thief and shall be put to death. The owner of the lost article receives his property, and he who bought it receives the money he paid from the estate of the merchant.

10. If the purchaser does not bring the merchant and the witnesses before whom he bought the article, but its owner bring witnesses who identify it, then the buyer is the thief and shall be put to death, and the owner receives the lost article.

11. If the owner do not bring witnesses to identify the lost article, he is an evil-doer, he has traduced, and shall be put to death.

12. If the witnesses be not at hand, then shall the judge set a limit, at the expiration of six months. If his witnesses have not appeared within the six months, he is an evil-doer, and shall bear the fine of the pending case.

14. If any one steal the minor son of another, he shall be put to death.

15. If any one take a male or female slave of the court, or a male or female slave of a freed man, outside the city gates, he shall be put to death.

16. If any one receive into his house a runaway male or female slave of the court, or of a freedman, and does not bring it out at the public proclamation of the major domus, the master of the house shall be put to death.

17. If any one find runaway male or female slaves in the open country and bring them to their masters, the master of the slaves shall pay him two shekels of silver.

18. If the slave will not give the name of the master, the finder shall bring him to the palace; a further investigation must follow, and the slave shall be returned to his master.

19. If he hold the slaves in his house, and they are caught there, he shall be put to death.

20. If the slave that he caught run away from him, then shall he swear to the owners of the slave, and he is free of all blame.

21. If any one break a hole into a house (break in to steal), he shall be put to death before that hole and be buried.

22. If any one is committing a robbery and is caught, then he shall be put to death.

23. If the robber is not caught, then shall he who was robbed claim under oath the amount of his loss; then shall the community, and . . . on whose ground and territory and in whose domain it was compensate him for the goods stolen.

24. If persons are stolen, then shall the community and . . . pay one mina of silver to their relatives.

25. If fire break out in a house, and some one who comes to put it out cast his eye upon the property of the owner of the house, and take the property of the master of the house, he shall be thrown into that self-same fire.

26. If a chieftain or a man (common soldier), who has been ordered to go upon the king's highway for war does not go, but hires a mercenary, if he withholds the compensation, then shall this officer or man be put to death, and he who represented him shall take possession of his house.

27. If a chieftain or man be caught in the misfortune of the king (captured in battle), and if his fields and garden be given to another and he take possession, if he return and reaches his place, his field and garden shall be returned to him, he shall take it over again.

28. If a chieftain or a man be caught in the misfortune of a king, if his son is able to enter into possession, then the field and garden shall be given to him, he shall take over the fee of his father.

29. If his son is still young, and can not take possession, a third of the field and garden shall be given to his mother, and she shall bring him up.

30. If a chieftain or a man leave his house, garden, and field and hires it out, and some one else takes possession of his house, garden, and field and uses it for three years: if the first owner return and claims his house, garden, and field, it shall not be given to him, but he who has taken possession of it and used it shall continue to use it.

31. If he hire it out for one year and then return, the house, garden, and field shall be given back to him, and he shall take it over again.

32. If a chieftain or a man is captured on the "Way of the King" (in war), and a merchant buy him free, and bring him back to his place; if he have the means in his house to buy his freedom, he shall buy himself free: if he have nothing in

his house with which to buy himself free, he shall be bought free by the temple of his community; if there be nothing in the temple with which to buy him free, the court shall buy his freedom. His field, garden, and house shall not be given for the purchase of his freedom.

33. If a . . . or a . . . enter himself as withdrawn from the "Way of the King," and send a mercenary as substitute, but withdraw him, then the . . . or . . . shall be put to death.

34. If a . . . or a . . . harm the property of a captain, injure the captain, or take away from the captain a gift presented to him by the king, then the . . . or . . . shall be put to death.

35. If any one buy the cattle or sheep which the king has given to chieftains from him, he loses his money.

36. The field, garden, and house of a chieftain, of a man, or of one subject to quit-rent, can not be sold.

37. If any one buy the field, garden, and house of a chieftain, man, or one subject to quit-rent, his contract tablet of sale shall be broken (declared invalid) and he loses his money. The field, garden, and house return to their owners.

38. A chieftain, man, or one subject to quit-rent can not assign his tenure of field, house, and garden to his wife or daughter, nor can he assign it for a debt.

39. He may, however, assign a field, garden, or house which he has bought, and holds as property, to his wife or daughter or give it for debt.

40. He may sell field, garden, and house to a merchant (royal agents) or to any other public official, the buyer holding field, house, and garden for its usufruct.

41. If any one fence in the field, garden, and house of a chieftain, man, or one subject to quit-rent, furnishing the palings therefor; if the chieftain, man, or one subject to quit-rent return to field, garden, and house, the palings which were given to him become his property.

42. If any one take over a field to till it, and obtain no harvest therefrom, it must be proved that he did no work on the field, and he must deliver grain, just as his neighbor raised, to the owner of the field.

43. If he do not till the field, but let it lie fallow, he shall give grain like his neighbor's to the owner of the field, and the field which he let lie fallow he must plow and sow and return to its owner.

44. If any one take over a waste-lying field to make it arable, but is lazy, and does not make it arable, he shall plow the fallow field in the fourth year, harrow it and till it, and give it back to its owner, and for each ten gan (a measure of area) ten gur of grain shall be paid.

45. If a man rent his field for tillage for a fixed rental, and receive the rent of his field, but bad weather come and destroy the harvest, the injury falls upon the tiller of the soil.

46. If he do not receive a fixed rental for his field, but lets it on half or third shares of the harvest, the grain on the field shall be divided proportionately between the tiller and the owner.

47. If the tiller, because he did not succeed in the first year, has had the soil tilled by others, the owner may raise no objection; the field has been cultivated and he receives the harvest according to agreement.

48. If any one owe a debt for a loan, and a storm prostrates the grain, or the harvest fail, or the grain does not grow for lack of water; in that year he need not give his creditor any grain, he washes his debt-tablet in water and pays no rent for this year.

49. If any one take money from a merchant, and give the merchant a field tillable for corn or sesame and order him to plant corn or sesame in the field, and to harvest the crop; if the cultivator plant corn or sesame in the field, at the harvest the corn or sesame that is in the field shall belong to the owner of the field and he shall pay corn as rent, for the money he received from the merchant, and the livelihood of the cultivator shall he give to the merchant.

50. If he give a cultivated corn-field or a cultivated sesame-field, the corn or sesame in the field shall belong to the owner of the field, and he shall return the money to the merchant as rent.

51. If he have no money to repay, then he shall pay in corn or sesame in place of the money as rent for what he received from the merchant, according to the royal tariff.

52. If the cultivator do not plant corn or sesame in the field, the debtor's contract is not weakened.

53. If any one be too lazy to keep his dam in proper condition, and does not so keep it; if then the dam break and all the fields be flooded, then shall he in whose dam the break occurred be sold for money, and the money shall replace the corn which he has caused to be ruined.

54. If he be not able to replace the corn, then he and his possessions shall be divided among the farmers whose corn he has flooded.

55. If any one open his ditches to water his crop, but is careless, and the water flood the field of his neighbor, then he shall pay his neighbor corn for his loss.

56. If a man let in the water, and the water overflow the plantation of his neighbor, he shall pay ten gur of corn for every ten gan of land.

57. If a shepherd, without the permission of the owner of the field, and without the knowledge of the owner of the sheep, lets the sheep into a field to graze, then the owner of the field shall harvest his crop, and the shepherd, who had pastured his flock there without permission of the owner of the field, shall pay to the owner twenty gur of corn for every ten gan.

58. If after the flocks have left the pasture and been shut up in the common fold at the city gate, any shepherd let them into a field and they graze there, this shepherd shall take possession of the field which he has allowed to be grazed on, and at the harvest he must pay sixty gur of corn for every ten gan.

59. If any man, without the knowledge of the owner of a garden, fell a tree in a garden he shall pay half a mina in money.

60. If any one give over a field to a gardener, for him to plant it as a garden, if he work at it, and care for it for four years, in the fifth year the owner and the gardener shall divide it, the owner taking his part in charge.

61. If the gardener has not completed the planting of the field, leaving one part unused, this shall be assigned to him as his.

62. If he do not plant the field that was given over to him as a garden, if it be arable land (for corn or sesame) the gardener shall pay the owner the produce of the field for the years that he let it lie fallow, according to the product of neighboring fields, put the field in arable condition and return it to its owner.

63. If he transform waste land into arable fields and return it to its owner, the latter shall pay him for one year ten gur for ten gan.

64. If any one hand over his garden to a gardener to work, the gardener shall pay to its owner two-thirds of the produce of the garden, for so long as he has it in possession, and the other third shall he keep.

65. If the gardener do not work in the garden and the product fall off, the gardener shall pay in proportion to other neighboring gardens. [Here a portion of the text is missing, apparently comprising thirty-four paragraphs.]

100. . . . interest for the money, as much as he has received, he shall give a note therefor, and on the day, when they settle, pay to the merchant.

101. If there are no mercantile arrangements in the place whither he went, he shall leave the entire amount of money which he received with the broker to give to the merchant.

102. If a merchant entrust money to an agent (broker) for some investment, and the broker suffer a loss in the place to which he goes, he shall make good the capital to the merchant.

103. If, while on the journey, an enemy take away from him anything that he had, the broker shall swear by God and be free of obligation.

104. If a merchant give an agent corn, wool, oil, or any other goods to transport, the agent shall give a receipt for the amount, and compensate the merchant therefor. Then he shall obtain a receipt form the merchant for the money that he gives the merchant.

105. If the agent is careless, and does not take a receipt for the money which he gave the merchant, he can not consider the unreceipted money as his own.

106. If the agent accept money from the merchant, but have a quarrel with the merchant (denying the receipt), then shall the merchant swear before God and witnesses that he has given this money to the agent, and the agent shall pay him three times the sum.

107. If the merchant cheat the agent, in that as the latter has returned to him all that had been given him, but the merchant denies the receipt of what had been returned to him, then shall this agent convict the merchant before God and the judges, and if he still deny receiving what the agent had given him shall pay six times the sum to the agent.

108. If a tavern-keeper (feminine) does not accept corn according to gross weight in payment of drink, but takes money, and the price of the drink is less than that of the corn, she shall be convicted and thrown into the water.

109. If conspirators meet in the house of a tavern-keeper, and these conspirators are not captured and delivered to the court, the tavern-keeper shall be put to death.

110. If a "sister of a god" open a tavern, or enter a tavern to drink, then shall this woman be burned to death.

111. If an inn-keeper furnish sixty ka of usakani-drink to . . . she shall receive fifty ka of corn at the harvest.

112. If any one be on a journey and entrust silver, gold, precious stones, or any movable property to another, and wish to recover it from him; if the latter do not bring all of the property to the appointed place, but appropriate it to his own use, then shall this man, who did not bring the property to hand it over, be convicted, and he shall pay fivefold for all that had been entrusted to him.

113. If any one have consignment of corn or money, and he take from the granary or box without the knowledge of the owner, then shall he who took corn without the knowledge of the owner out of the granary or money out of the box be legally convicted, and repay the corn he has taken. And he shall lose whatever commission was paid to him, or due him.

114. If a man have no claim on another for corn and money, and try to demand it by force, he shall pay one-third of a mina of silver in every case.

115. If any one have a claim for corn or money upon another and imprison him; if the prisoner die in prison a natural death, the case shall go no further.

116. If the prisoner die in prison from blows or maltreatment, the master of the prisoner shall convict the merchant before the judge. If he was a free-born man, the son of the merchant shall be put to death; if it was a slave, he shall pay one-third of a mina of gold, and all that the master of the prisoner gave he shall forfeit.

117. If any one fail to meet a claim for debt, and sell himself, his wife, his son, and daughter for money or give them away to forced labor: they shall work for three years in the house of the man who bought them, or the proprietor, and in the fourth year they shall be set free.

118. If he give a male or female slave away for forced labor, and the merchant sublease them, or sell them for money, no objection can be raised.

119. If any one fail to meet a claim for debt, and he sell the maid servant who has borne him children, for money, the money which the merchant has paid shall be repaid to him by the owner of the slave and she shall be freed.

120. If any one store corn for safe keeping in another person's house, and any harm happen to the corn in storage, or if the owner of the house open the granary and take some of the corn, or if especially he deny that the corn was stored in his house: then the owner of the corn shall claim his corn before God (on oath), and the owner of the house shall pay its owner for all of the corn that he took.

121. If any one store corn in another man's house he shall pay him storage at the rate of one gur for every five ka of corn per year.

122. If any one give another silver, gold, or anything else to keep, he shall show everything to some witness, draw up a contract, and then hand it over for safe keeping.

123. If he turn it over for safe keeping without witness or contract, and if he to whom it was given deny it, then he has no legitimate claim.

124. If any one deliver silver, gold, or anything else to another for safe keeping, before a witness, but he deny it, he shall be brought before a judge, and all that he has denied he shall pay in full.

125. If any one place his property with another for safe keeping, and there, either through thieves or robbers, his property and the property of the other man be lost, the owner of the house, through whose neglect the loss took place, shall compensate the owner for all that was given to him in charge. But the owner of the house shall try to follow up and recover his property, and take it away from the thief.

126. If any one who has not lost his goods state that they have been lost, and make false claims: if he claim his goods and amount of injury before God, even though he has not lost them, he shall be fully compensated for all his loss claimed. (I.e., the oath is all that is needed.)

127. If any one "point the finger" (slander) at a sister of a god or the wife of any one, and can not prove it, this man shall be taken before the judges and his brow shall be marked. (by cutting the skin, or perhaps hair.)

128. If a man take a woman to wife, but have no intercourse with her, this woman is no wife to him.

129. If a man's wife be surprised (in flagrante delicto) with another man, both shall be tied and thrown into the water, but the husband may pardon his wife and the king his slaves.

130. If a man violate the wife (betrothed or child-wife) of another man, who has never known a man, and still lives in her father's house, and sleep with her and be surprised, this man shall be put to death, but the wife is blameless.

131. If a man bring a charge against one's wife, but she is not surprised with another man, she must take an oath and then may return to her house.

132. If the "finger is pointed" at a man's wife about another man, but she is not caught sleeping with the other man, she shall jump into the river for her husband.

133. If a man is taken prisoner in war, and there is a sustenance in his house, but his wife leave house and court, and go to another house: because this wife did not keep her court, and went to another house, she shall be judicially condemned and thrown into the water.

134. If any one be captured in war and there is not sustenance in his house, if then his wife go to another house this woman shall be held blameless.

135. If a man be taken prisoner in war and there be no sustenance in his house and his wife go to another house and bear children; and if later her husband return and come to his home: then this wife shall return to her husband, but the children follow their father.

136. If any one leave his house, run away, and then his wife go to another house, if then he return, and wishes to take his wife back: because he fled from his home and ran away, the wife of this runaway shall not return to her husband.

137. If a man wish to separate from a woman who has borne him children, or from his wife who has borne him children: then he shall give that wife her dowry, and a part of the usufruct of field, garden, and property, so that she can rear her children. When she has brought up her children, a portion of all that is given to the children, equal as that of one son, shall be given to her. She may then marry the man of her heart.

138. If a man wishes to separate from his wife who has borne him no children, he shall give her the amount of her purchase money and the dowry which she brought from her father's house, and let her go.

139. If there was no purchase price he shall give her one mina of gold as a gift of release.

140. If he be a freed man he shall give her one-third of a mina of gold.

141. If a man's wife, who lives in his house, wishes to leave it, plunges into debt, tries to ruin her house, neglects her husband, and is judicially convicted: if her husband offer her release, she may go on her way, and he gives her nothing as a gift of release. If her husband does not wish to release her, and if he take another wife, she shall remain as servant in her husband's house.

142. If a woman quarrel with her husband, and say: "You are not congenial to me," the reasons for her prejudice must be presented. If she is guiltless, and there is no fault on her part, but he leaves and neglects her, then no guilt attaches to this woman, she shall take her dowry and go back to her father's house.

143. If she is not innocent, but leaves her husband, and ruins her house, neglecting her husband, this woman shall be cast into the water.

144. If a man take a wife and this woman give her husband a maid-servant, and she bear him children, but this man wishes to take another wife, this shall not be permitted to him; he shall not take a second wife.

145. If a man take a wife, and she bear him no children, and he intend to take another wife: if he take this second wife, and bring her into the house, this second wife shall not be allowed equality with his wife.

146. If a man take a wife and she give this man a maid-servant as wife and she bear him children, and then this maid assume equality with the wife: because she has borne him children her master shall not sell her for money, but he may keep her as a slave, reckoning her among the maid-servants.

147. If she have not borne him children, then her mistress may sell her for money.

148. If a man take a wife, and she be seized by disease, if he then desire to take a second wife he shall not put away his wife, who has been attacked by

disease, but he shall keep her in the house which he has built and support her so long as she lives.

149. If this woman does not wish to remain in her husband's house, then he shall compensate her for the dowry that she brought with her from her father's house, and she may go.

150. If a man give his wife a field, garden, and house and a deed therefor, if then after the death of her husband the sons raise no claim, then the mother may bequeath all to one of her sons whom she prefers, and need leave nothing to his brothers.

151. If a woman who lived in a man's house made an agreement with her husband, that no creditor can arrest her, and has given a document therefor: if that man, before he married that woman, had a debt, the creditor can not hold the woman for it. But if the woman, before she entered the man's house, had contracted a debt, her creditor can not arrest her husband therefor.

152. If after the woman had entered the man's house, both contracted a debt, both must pay the merchant.

153. If the wife of one man on account of another man has their mates (her husband and the other man's wife) murdered, both of them shall be impaled.

154. If a man be guilty of incest with his daughter, he shall be driven from the place (exiled).

155. If a man betroth a girl to his son, and his son have intercourse with her, but he (the father) afterward defile her, and be surprised, then he shall be bound and cast into the water (drowned).

156. If a man betroth a girl to his son, but his son has not known her, and if then he defile her, he shall pay her half a gold mina, and compensate her for all that she brought out of her father's house. She may marry the man of her heart.

157. If any one be guilty of incest with his mother after his father, both shall be burned.

158. If any one be surprised after his father with his chief wife, who has borne children, he shall be driven out of his father's house.

159. If any one, who has brought chattels into his father-in-law's house, and has paid the purchase-money, looks for another wife, and says to his father-in-law: "I do not want your daughter," the girl's father may keep all that he had brought.

160. If a man bring chattels into the house of his father-in-law, and pay the "purchase price" (for his wife): if then the father of the girl say: "I will not give you my daughter," he shall give him back all that he brought with him.

161. If a man bring chattels into his father-in-law's house and pay the "purchase price," if then his friend slander him, and his father-in-law say to the young husband: "You shall not marry my daughter," then he shall give back to him undiminished all that he had brought with him; but his wife shall not be married to the friend.

162. If a man marry a woman, and she bear sons to him; if then this woman die, then shall her father have no claim on her dowry; this belongs to her sons.

163. If a man marry a woman and she bear him no sons; if then this woman die, if the "purchase price" which he had paid into the house of his father-in-law is repaid to him, her husband shall have no claim upon the dowry of this woman; it belongs to her father's house.

164. If his father-in-law do not pay back to him the amount of the "purchase price" he may subtract the amount of the "Purchase price" from the dowry, and then pay the remainder to her father's house.

165. If a man give to one of his sons whom he prefers a field, garden, and house, and a deed therefor: if later the father die, and the brothers divide the estate, then they shall first give him the present of his father, and he shall accept it; and the rest of the paternal property shall they divide.

166. If a man take wives for his son, but take no wife for his minor son, and if then he die: if the sons divide the estate, they shall set aside besides his portion the money for the "purchase price" for the minor brother who had taken no wife as yet, and secure a wife for him.

167. If a man marry a wife and she bear him children: if this wife die and he then take another wife and she bear him children: if then the father die, the sons must not partition the estate according to the mothers, they shall divide the dowries of their mothers only in this way; the paternal estate they shall divide equally with one another.

168. If a man wish to put his son out of his house, and declare before the judge: "I want to put my son out," then the judge shall examine into his reasons. If the son be guilty of no great fault, for which he can be rightfully put out, the father shall not put him out.

169. If he be guilty of a grave fault, which should rightfully deprive him of the filial relationship, the father shall forgive him the first time; but if he be guilty of a grave fault a second time the father may deprive his son of all filial relation.

170. If his wife bear sons to a man, or his maid-servant have borne sons, and the father while still living says to the children whom his maid-servant has borne: "My sons," and he count them with the sons of his wife; if then the father die, then the sons of the wife and of the maid-servant shall divide the paternal property in common. The son of the wife is to partition and choose.

171. If, however, the father while still living did not say to the sons of the maid-servant: "My sons," and then the father dies, then the sons of the maid-servant shall not share with the sons of the wife, but the freedom of the maid and her sons shall be granted. The sons of the wife shall have no right to enslave the sons of the maid; the wife shall take her dowry (from her father), and the gift that her husband gave her and deeded to her (separate from dowry, or the purchase-money paid her father), and live in the home of her husband: so long as she lives she shall use it, it shall not be sold for money. Whatever she leaves shall belong to her children.

172. If her husband made her no gift, she shall be compensated for her gift, and she shall receive a portion from the estate of her husband, equal to that of one child. If her sons oppress her, to force her out of the house, the judge shall examine into the matter, and if the sons are at fault the woman shall not leave her husband's house. If the woman desire to leave the house, she must leave to her sons the gift which her husband gave her, but she may take the dowry of her father's house. Then she may marry the man of her heart.

173. If this woman bear sons to her second husband, in the place to which she went, and then die, her earlier and later sons shall divide the dowry between them.

174. If she bear no sons to her second husband, the sons of her first husband shall have the dowry.

175. If a State slave or the slave of a freed man marry the daughter of a free man, and children are born, the master of the slave shall have no right to enslave the children of the free.

176. If, however, a State slave or the slave of a freed man marry a man's daughter, and after he marries her she bring a dowry from a father's house, if then they both enjoy it and found a household, and accumulate means, if then the slave die, then she who was free born may take her dowry, and all that her husband and she had earned; she shall divide them into two parts, one-half the master for the slave shall take, and the other half shall the free-born woman take for her children. If the free-born woman had no gift she shall take all that her husband and she had earned and divide it into two parts; and the master of the slave shall take one-half and she shall take the other for her children.

177. If a widow, whose children are not grown, wishes to enter another house (remarry), she shall not enter it without the knowledge of the judge. If she enter another house the judge shall examine the state of the house of her first husband. Then the house of her first husband shall be entrusted to the second husband and the woman herself as managers. And a record must be made thereof. She shall keep the house in order, bring up the children, and not sell the house-hold utensils. He who buys the utensils of the children of a widow shall lose his money, and the goods shall return to their owners.

178. If a "devoted woman" or a prostitute to whom her father has given a dowry and a deed therefor, but if in this deed it is not stated that she may bequeath it as she pleases, and has not explicitly stated that she has the right of disposal; if then her father die, then her brothers shall hold her field and garden, and give her corn, oil, and milk according to her portion, and satisfy her. If her brothers do not give her corn, oil, and milk according to her share, then her field and garden shall support her. She shall have the usufruct of field and garden and all that her father gave her so long as she lives, but she can not sell or assign it to others. Her position of inheritance belongs to her brothers.

179. If a "sister of a god," or a prostitute, receive a gift from her father, and a deed in which it has been explicitly stated that she may dispose of it as she pleases, and give her complete disposition thereof: if then her father die, then she may leave her property to whomsoever she pleases. Her brothers can raise no claim thereto.

180. If a father give a present to his daughter--either marriageable or a prostitute unmarriageable)--and then die, then she is to receive a portion as a child from the paternal estate, and enjoy its usufruct so long as she lives. Her estate belongs to her brothers.

181. If a father devote a temple-maid or temple-virgin to God and give her no present: if then the father die, she shall receive the third of a child's portion from the inheritance of her father's house, and enjoy its usufruct so long as she lives. Her estate belongs to her brothers.

182. If a father devote his daughter as a wife of Mardi of Babylon (as in 181), and give her no present, nor a deed; if then her father die, then shall she receive one-third of her portion as a child of her father's house from her brothers, but Marduk may leave her estate to whomsoever she wishes.

183. If a man give his daughter by a concubine a dowry, and a husband, and a deed; if then her father die, she shall receive no portion from the paternal estate.

184. If a man do not give a dowry to his daughter by a concubine, and no husband; if then her father die, her brother shall give her a dowry according to her father's wealth and secure a husband for her.

185. If a man adopt a child and to his name as son, and rear him, this grown son can not be demanded back again.

186. If a man adopt a son, and if after he has taken him he injure his foster father and mother, then this adopted son shall return to his father's house.

187. The son of a paramour in the palace service, or of a prostitute, can not be demanded back.

188. If an artizan has undertaken to rear a child and teaches him his craft, he can not be demanded back.

189. If he has not taught him his craft, this adopted son may return to his father's house.

190. If a man does not maintain a child that he has adopted as a son and reared with his other children, then his adopted son may return to his father's house.

191. If a man, who had adopted a son and reared him, founded a household, and had children, wish to put this adopted son out, then this son shall not simply go

his way. His adoptive father shall give him of his wealth one-third of a child's portion, and then he may go. He shall not give him of the field, garden, and house.

192. If a son of a paramour or a prostitute say to his adoptive father or mother: "You are not my father, or my mother," his tongue shall be cut off.

193. If the son of a paramour or a prostitute desire his father's house, and desert his adoptive father and adoptive mother, and goes to his father's house, then shall his eye be put out.

194. If a man give his child to a nurse and the child die in her hands, but the nurse unbeknown to the father and mother nurse another child, then they shall convict her of having nursed another child without the knowledge of the father and mother and her breasts shall be cut off.

195. If a son strike his father, his hands shall be hewn off.

196. If a man put out the eye of another man, his eye shall be put out. [ An eye for an eye ]

197. If he break another man's bone, his bone shall be broken.

198. If he put out the eye of a freed man, or break the bone of a freed man, he shall pay one gold mina.

199. If he put out the eye of a man's slave, or break the bone of a man's slave, he shall pay one-half of its value.

200. If a man knock out the teeth of his equal, his teeth shall be knocked out. [ A tooth for a tooth ]

201. If he knock out the teeth of a freed man, he shall pay one-third of a gold mina.

202. If any one strike the body of a man higher in rank than he, he shall receive sixty blows with an ox-whip in public.

203. If a free-born man strike the body of another free-born man or equal rank, he shall pay one gold mina.

204. If a freed man strike the body of another freed man, he shall pay ten shekels in money.

205. If the slave of a freed man strike the body of a freed man, his ear shall be cut off.

206. If during a quarrel one man strike another and wound him, then he shall swear, "I did not injure him wittingly," and pay the physicians.

207. If the man die of his wound, he shall swear similarly, and if he (the deceased) was a free-born man, he shall pay half a mina in money.

208. If he was a freed man, he shall pay one-third of a mina.

209. If a man strike a free-born woman so that she lose her unborn child, he shall pay ten shekels for her loss.

210. If the woman die, his daughter shall be put to death.

211. If a woman of the free class lose her child by a blow, he shall pay five shekels in money.

212. If this woman die, he shall pay half a mina.

213. If he strike the maid-servant of a man, and she lose her child, he shall pay two shekels in money.

214. If this maid-servant die, he shall pay one-third of a mina.

215. If a physician make a large incision with an operating knife and cure it, or if he open a tumor (over the eye) with an operating knife, and saves the eye, he shall receive ten shekels in money.

216. If the patient be a freed man, he receives five shekels.

217. If he be the slave of some one, his owner shall give the physician two shekels.

218. If a physician make a large incision with the operating knife, and kill him, or open a tumor with the operating knife, and cut out the eye, his hands shall be cut off.

219. If a physician make a large incision in the slave of a freed man, and kill him, he shall replace the slave with another slave.

220. If he had opened a tumor with the operating knife, and put out his eye, he shall pay half his value.

221. If a physician heal the broken bone or diseased soft part of a man, the patient shall pay the physician five shekels in money.

222. If he were a freed man he shall pay three shekels.

223. If he were a slave his owner shall pay the physician two shekels.

224. If a veterinary surgeon perform a serious operation on an ass or an ox, and cure it, the owner shall pay the surgeon one-sixth of a shekel as a fee.

225. If he perform a serious operation on an ass or ox, and kill it, he shall pay the owner one-fourth of its value.

226. If a barber, without the knowledge of his master, cut the sign of a slave on a slave not to be sold, the hands of this barber shall be cut off.

227. If any one deceive a barber, and have him mark a slave not for sale with the sign of a slave, he shall be put to death, and buried in his house. The barber shall swear: "I did not mark him wittingly," and shall be guiltless.

228. If a builder build a house for some one and complete it, he shall give him a fee of two shekels in money for each sar of surface.

229. If a builder build a house for some one, and does not construct it properly, and the house which he built fall in and kill its owner, then that builder shall be put to death.

230. If it kill the son of the owner the son of that builder shall be put to death.

231. If it kill a slave of the owner, then he shall pay slave for slave to the owner of the house.

232. If it ruin goods, he shall make compensation for all that has been ruined, and inasmuch as he did not construct properly this house which he built and it fell, he shall re-erect the house from his own means.

233. If a builder build a house for some one, even though he has not yet completed it; if then the walls seem toppling, the builder must make the walls solid from his own means.

234. If a shipbuilder build a boat of sixty gur for a man, he shall pay him a fee of two shekels in money.

235. If a shipbuilder build a boat for some one, and do not make it tight, if during that same year that boat is sent away and suffers injury, the shipbuilder shall take the boat apart and put it together tight at his own expense. The tight boat he shall give to the boat owner.

236. If a man rent his boat to a sailor, and the sailor is careless, and the boat is wrecked or goes aground, the sailor shall give the owner of the boat another boat as compensation.

237. If a man hire a sailor and his boat, and provide it with corn, clothing, oil and dates, and other things of the kind needed for fitting it: if the sailor is careless, the boat is wrecked, and its contents ruined, then the sailor shall compensate for the boat which was wrecked and all in it that he ruined.

238. If a sailor wreck any one's ship, but saves it, he shall pay the half of its value in money.

239. If a man hire a sailor, he shall pay him six gur of corn per year.

240. If a merchantman run against a ferryboat, and wreck it, the master of the ship that was wrecked shall seek justice before God; the master of the merchantman, which wrecked the ferryboat, must compensate the owner for the boat and all that he ruined.

241. If any one impresses an ox for forced labor, he shall pay one-third of a mina in money.

242. If any one hire oxen for a year, he shall pay four gur of corn for plow-oxen.

243. As rent of herd cattle he shall pay three gur of corn to the owner.

244. If any one hire an ox or an ass, and a lion kill it in the field, the loss is upon its owner.

245. If any one hire oxen, and kill them by bad treatment or blows, he shall compensate the owner, oxen for oxen.

246. If a man hire an ox, and he break its leg or cut the ligament of its neck, he shall compensate the owner with ox for ox.

247. If any one hire an ox, and put out its eye, he shall pay the owner one-half of its value.

248. If any one hire an ox, and break off a horn, or cut off its tail, or hurt its muzzle, he shall pay one-fourth of its value in money.

249. If any one hire an ox, and God strike it that it die, the man who hired it shall swear by God and be considered guiltless.

250. If while an ox is passing on the street (market) some one push it, and kill it, the owner can set up no claim in the suit (against the hirer).

251. If an ox be a goring ox, and it shown that he is a gorer, and he do not bind his horns, or fasten the ox up, and the ox gore a free-born man and kill him, the owner shall pay one-half a mina in money.

252. If he kill a man's slave, he shall pay one-third of a mina.

253. If any one agree with another to tend his field, give him seed, entrust a yoke of oxen to him, and bind him to cultivate the field, if he steal the corn or plants, and take them for himself, his hands shall be hewn off.

254. If he take the seed-corn for himself, and do not use the yoke of oxen, he shall compensate him for the amount of the seed-corn.

255. If he sublet the man's yoke of oxen or steal the seed-corn, planting nothing in the field, he shall be convicted, and for each one hundred gan he shall pay sixty gur of corn.

256. If his community will not pay for him, then he shall be placed in that field with the cattle (at work).

257. If any one hire a field laborer, he shall pay him eight gur of corn per year.

258. If any one hire an ox-driver, he shall pay him six gur of corn per year.

259. If any one steal a water-wheel from the field, he shall pay five shekels in money to its owner.

260. If any one steal a shadduf (used to draw water from the river or canal) or a plow, he shall pay three shekels in money.

261. If any one hire a herdsman for cattle or sheep, he shall pay him eight gur of corn per annum.

262. If any one, a cow or a sheep . . .

263. If he kill the cattle or sheep that were given to him, he shall compensate the owner with cattle for cattle and sheep for sheep.

264. If a herdsman, to whom cattle or sheep have been entrusted for watching over, and who has received his wages as agreed upon, and is satisfied, diminish the number of the cattle or sheep, or make the increase by birth less, he shall make good the increase or profit which was lost in the terms of settlement.

265. If a herdsman, to whose care cattle or sheep have been entrusted, be guilty of fraud and make false returns of the natural increase, or sell them for money, then shall he be convicted and pay the owner ten times the loss.

266. If the animal be killed in the stable by God ( an accident), or if a lion kill it, the herdsman shall declare his innocence before God, and the owner bears the accident in the stable.

267. If the herdsman overlook something, and an accident happen in the stable, then the herdsman is at fault for the accident which he has caused in the stable, and he must compensate the owner for the cattle or sheep.

268. If any one hire an ox for threshing, the amount of the hire is twenty ka of corn.

269. If he hire an ass for threshing, the hire is twenty ka of corn.

270. If he hire a young animal for threshing, the hire is ten ka of corn.

271. If any one hire oxen, cart and driver, he shall pay one hundred and eighty ka of corn per day.

272. If any one hire a cart alone, he shall pay forty ka of corn per day.

273. If any one hire a day laborer, he shall pay him from the New Year until the fifth month (April to August, when days are long and the work hard) six gerahs in money per day; from the sixth month to the end of the year he shall give him five gerahs per day.

274. If any one hire a skilled artizan, he shall pay as wages of the . . . five gerahs, as wages of the potter five gerahs, of a tailor five gerahs, of . . . gerahs, . . . of a ropemaker four gerahs, of . . . gerahs, of a mason . . . gerahs per day.

275. If any one hire a ferryboat, he shall pay three gerahs in money per day.

276. If he hire a freight-boat, he shall pay two and one-half gerahs per day.

277. If any one hire a ship of sixty gur, he shall pay one-sixth of a shekel in money as its hire per day.

278. If any one buy a male or female slave, and before a month has elapsed the benu-disease be developed, he shall return the slave to the seller, and receive the money which he had paid.

279. If any one buy a male or female slave, and a third party claim it, the seller is liable for the claim.

280. If while in a foreign country a man buy a male or female slave belonging to another of his own country; if when he return home the owner of the male or female slave recognize it: if the male or female slave be a native of the country, he shall give them back without any money.

281. If they are from another country, the buyer shall declare the amount of money paid therefor to the merchant, and keep the male or female slave.

282. If a slave say to his master: "You are not my master," if they convict him his master shall cut off his ear.

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### *THE EPILOGUE*

LAWS of justice which Hammurabi, the wise king, established. A righteous law, and pious statute did he teach the land. Hammurabi, the protecting king am I. I have not withdrawn myself from the men, whom Bel gave to me, the rule over whom [Marduk](#) gave to me, I was not negligent, but I made them a peaceful abiding-place. I expounded all great difficulties, I made the light shine upon them. With the mighty weapons which [Zamama](#) and [Ishtar](#) entrusted to me, with the keen vision with which [Ea](#) endowed me, with the wisdom that [Marduk](#) gave me, I have uprooted the enemy above and below (in north and south), subdued the earth, brought prosperity to the land, guaranteed security to the inhabitants in their homes; a disturber was not permitted. The great gods have

called me, I am the salvation-bearing shepherd, whose staff is straight, the good shadow that is spread over my city; on my breast I cherish the inhabitants of the land of [Sumer](#) and [Akkad](#); in my shelter I have let them repose in peace; in my deep wisdom have I enclosed them. That the strong might not injure the weak, in order to protect the widows and orphans, I have in [Babylon](#) the city where [Anu](#) and [Bel](#) raise high their head, in [E-Sagil](#), the Temple, whose foundations stand firm as heaven and earth, in order to bespeak justice in the land, to settle all disputes, and heal all injuries, set up these my precious words, written upon my memorial stone, before the image of me, as king of righteousness.

The king who ruleth among the kings of the cities am I. My words are well considered; there is no wisdom like unto mine. By the command of [Shamash](#), the great judge of heaven and earth, let righteousness go forth in the land: by the order of [Marduk](#), my lord, let no destruction befall my monument. In [E-Sagil](#), which I love, let my name be ever repeated; let the oppressed, who has a case at law, come and stand before this my image as king of righteousness; let him read the inscription, and understand my precious words: the inscription will explain his case to him; he will find out what is just, and his heart will be glad, so that he will say:

"Hammurabi is a ruler, who is as a father to his subjects, who holds the words of [Marduk](#) in reverence, who has achieved conquest for [Marduk](#) over the north and south, who rejoices the heart of [Marduk](#), his lord, who has bestowed benefits for ever and ever on his subjects, and has established order in the land."

When he reads the record, let him pray with full heart to [Marduk](#), my lord, and [Zarpanit](#), my lady; and then shall the protecting deities and the gods, who frequent [E-Sagil](#), graciously grant the desires daily presented before [Marduk](#), my lord, and [Zarpanit](#), my lady.

In future time, through all coming generations, let the king, who may be in the land, observe the words of righteousness which I have written on my monument; let him not alter the law of the land which I have given, the edicts which I have enacted; my monument let him not mar. If such a ruler have wisdom, and be able to keep his land in order, he shall observe the words which I have written in this inscription; the rule, statute, and law of the land which I have given; the decisions which I have made will this inscription show him; let him rule his subjects accordingly, speak justice to them, give right decisions, root out the miscreants and criminals from this land, and grant prosperity to his subjects.

Hammurabi, the king of righteousness, on whom [Shamash](#) has conferred right (or law) am I. My words are well considered; my deeds are not equaled; to bring low those that were high; to humble the proud, to expel insolence. If a succeeding ruler considers my words, which I have written in this my inscription, if he do not annul my law, nor corrupt my words, nor change my monument, then may [Shamash](#) lengthen that king's reign, as he has that of me, the king of righteousness, that he may reign in righteousness over his subjects. If this ruler do not esteem my words, which I have written in my inscription, if he despise my curses, and fear not the curse of God, if he destroy the law which I have given, corrupt my words, change my monument, efface my name, write his name there, or on account of the curses commission another so to do, that man, whether king or ruler, patesi, or commoner, no matter what he be, may the great God ([Anu](#)), the Father of the gods, who has ordered my rule, withdraw from him the glory of royalty, break his scepter, curse his destiny. May [Bel](#), the lord, who fixeth destiny, whose command can not be altered, who has made my kingdom great, order a rebellion which his hand can not control; may he let the wind of the overthrow of his habitation blow, may he ordain the years of his rule in groaning, years of scarcity, years of famine, darkness without light, death with seeing eyes be fated to him; may he ([Bel](#)) order with his potent mouth the destruction of his city, the dispersion of his subjects, the cutting off of his rule, the removal of his name and memory from the land. May [Belit](#), the great Mother, whose command is potent in [E-Kur](#) (the Babylonian Olympus), the Mistress, who harkens graciously to my petitions, in the seat of judgment and decision (where [Bel](#) fixes destiny), turn his affairs evil before [Bel](#), and put the devastation of his land, the destruction of his subjects, the pouring out of his life like water into the mouth of King [Bel](#). May [Ea](#), the great ruler, whose fated decrees come to pass, the thinker of the gods, the omniscient, who maketh long the days of my life, withdraw understanding and wisdom from him, lead him to forgetfulness, shut up his rivers at their sources, and not allow corn or sustenance for man to grow in his land. May [Shamash](#), the great Judge of heaven and earth, who supporteth all means of livelihood, Lord of life-courage, shatter his dominion, annul his law, destroy his way, make vain the march of his troops, send him in his visions forecasts of the uprooting of the foundations of his throne and of the destruction of his land. May the condemnation of [Shamash](#) overtake him forthwith; may he be deprived of water above among the living, and his spirit below in the earth. May [Sin](#) (the Moon-god), the Lord of Heaven, the divine father, whose crescent gives light among the gods, take away the crown and regal throne from him; may he put upon him heavy guilt, great decay, that nothing may be lower than he. May he destine him as fated, days, months and years of dominion filled with sighing and tears, increase of the burden of dominion, a life that is like unto death. May [Adad](#), the lord of fruitfulness, ruler of heaven and earth, my helper,

withhold from him rain from heaven, and the flood of water from the springs, destroying his land by famine and want; may he rage mightily over his city, and make his land into flood-hills (heaps of ruined cities). May [Zamama](#), the great warrior, the first-born son of [E-Kur](#), who goeth at my right hand, shatter his weapons on the field of battle, turn day into night for him, and let his foe triumph over him. May [Ishtar](#), the goddess of fighting and war, who unfetters my weapons, my gracious protecting spirit, who loveth my dominion, curse his kingdom in her angry heart; in her great wrath, change his grace into evil, and shatter his weapons on the place of fighting and war. May she create disorder and sedition for him, strike down his warriors, that the earth may drink their blood, and throw down the piles of corpses of his warriors on the field; may she not grant him a life of mercy, deliver him into the hands of his enemies, and imprison him in the land of his enemies. May Nergal, the might among the gods, whose contest is irresistible, who grants me victory, in his great might burn up his subjects like a slender reedstalk, cut off his limbs with his mighty weapons, and shatter him like an earthen image. May [Nin-tu](#), the sublime mistress of the lands, the fruitful mother, deny him a son, vouchsafe him no name, give him no successor among men. May [Nin-karak](#), the daughter of [Anu](#), who adjudges grace to me, cause to come upon his members in [E-kur](#) high fever, severe wounds, that can not be healed, whose nature the physician does not understand, which he can not treat with dressing, which, like the bite of death, can not be removed, until they have sapped away his life.

May he lament the loss of his life-power, and may the great gods of heaven and earth, the [Anunaki](#), altogether inflict a curse and evil upon the confines of the temple, the walls of this [E-barra](#) (the Sun temple of [Sippara](#)), upon his dominion, his land, his warriors, his subjects, and his troops. May [Bel](#) curse him with the potent curses of his mouth that can not be altered, and may they come upon him forthwith.



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03/01/2003 10:08:34

## ***The Eight-Point Comprehensive National Anti-Corruption Strategy***

Realizing that the Office is in a crucible being tested by the confluence of events in its anti-corruption efforts, Ombudsman Desierto conceived and implemented an Eight-Point Battle Plan. This Battle Plan stands the litmus test which includes the will to prosecute cases before the courts guided by the law and a strong sense of justice and morality and the strength to roam the breadth and expanse of the nation to rally the citizenry to a life of righteousness.

### **I. Punitive and Retributive Method of Combating Corruption and Aggressive Imposition of Administrative Sanctions**

The Ombudsman's independence was threatened and tested many times over. But he would always emerge unscathed and strong. Though his task is daunting, Ombudsman Desierto boldly marks his legacy of an uncompromising, aggressive and efficient graft detection, evidence build up, investigation and administrative action.

With only seven years to serve as the Ombudsman, Ombudsman Desierto resolved to fight graft and corruption and abuse of authority through a relentless and efficient detection of anomalies, and the investigation, prosecution and punishment of wrongdoers.

This accounts for the Ombudsman's concentration on the plunder case against a former president. The Ombudsman law, R.A. 6770, mandates that "complaints against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties" should be given priority. Moreover, speedy action on the case within our judicial system will send the strong message that the rule of law prevails in this country and no one is above it.

He likewise pursued more than 70,000 administrative and criminal cases. Of these, the Office has meted administrative penalties in more than 2,000 cases against erring high-ranking and low-ranking officials of the national government and of the local government units.

### **II. Speedy and Uncompromising Investigation and Prosecution of Graft Cases**

The Ombudsman has proven his uncompromising stance several times through the investigation and prosecution function of the Office. With his steadfast and brave leadership, grafters in government are identified, investigated and prosecuted. The wrongdoers are penalized regardless of rank and position.

Since assuming office in August 1995, Ombudsman Aniano A. Desierto had received some 65,000 complaints and cases against government and military/public officials. Of these, 28,000 were filed in court.

Investigation and prosecution efforts from 1995 to June, 2001 resulted in the disposition of 46,000 cases, and the prosecution of 12,000 cases in the Sandiganbayan and the regular courts.

Thus, he boasted, "corruption is down by 38% over the last three years." Office statistics indicate incidents of corruption in graft prone government agencies were down by 28% in 2000.

The most significant reduction was registered both at 100% at the National Housing Authority and Duty Free Philippines, followed by the National Irrigation Administration at 69%, Bureau of Immigration, 62%, and the Department of Public Works and Highways, 45%.

In 2001, the Office of the Ombudsman had a combined workload of 13,585 criminal and administrative cases. The number of cases disposed of totaled 9,324 out of which 1,374 was recommended for criminal prosecution, while administrative sanction was imposed on 390 cases.

As of December of the same year, the high ranking officials with criminal charges filed in court included 62 armed forces and national police officials, 523 mayors, 18 governors, 6 congressmen, 2 ambassadors, 17 cabinet members, a former vice president, 2 former first ladies and a former president.

### III. Efficient and Responsive Public Assistance Program

Public assistance is another major function of the Office of the Ombudsman. The Ombudsman as a mobilizer, breathes hard on the necks of bureaucratic laggards to push them in the delivery of basic services like health care, power supply, water services, and personnel work benefits. In this regard, the Office serves at least 12,000 of our countrymen annually. For the seven year period, a total of 49, 239 requests for assistance were fully acted upon.

### IV. Intensive Graftwatch over the Bureaucracy

The Ombudsman strengthened the Resident Ombudsman concept because he believes that the mere presence of these ROs in graft-prone departments would be a strong deterrence to corruption. Their job is to ensure the steady flow of basic services and to monitor transactions in order to prevent wheeling and dealing. They also address incidents of

inefficiency when and where they happen. The impact of the resident Ombudsman program was dramatic. Incidence of graft and corruption marked a 28% reduction among identified graft-prone agencies.

#### V. People Empowerment

The Ombudsman accredited 433 Corruption Prevention Units (CPUs) from non-governmental organizations, with an estimated membership of about 2 million. It had also organized 1,402 Junior Graftwatch Units (JGUs) among the students and youth.

Both the CPUs and JGUs are regularly convened in seminars of honesty and integrity so they become the moral catalyst in their respective communities.

With the Ombudsman's encouragement, the CPUs launched a Duluganbayan or Public Assistance Action Center in Hongkong, with the task of assisting the Filipino overseas workers.

The tripod weapon of ROs, CPUs and JGUs which the Ombudsman has utilized in graft prevention was a success in uncovering dubious transactions which needed the Ombudsman's preventive actions. Ombudsman Desierto, for instance, stopped the implementation of a grossly disadvantageous contract where the government would have lost some P1 billion due to overpricing. Another instance was the anomalous land deal where the sale of a government property was set for only P23,000 per square meter when the going price was P30,000 per square meter. Ombudsman Desierto compelled the amendment of the contract to increase the consideration to P30,000 per square meter, thus saving the government more than P100 million in this transaction.

#### VI. Education and Transformation of Individual Psyche Through Values Orientation Seminars

It addresses the individual psyche to elevate one's level of morality and righteousness. It is called the psychological approach, a sustained campaign to rekindle and strengthen the wholesome Filipino values. This program is guided by the principle that the righteous individual does not easily succumb to corruption. In line with this ideal, Ombudsman Desierto introduced new government entrants' seminar and values orientation seminar modules for the entire bureaucracy. He also required the Sangguniang Kabataan, through the National Youth Commission, to undergo seminars on public accountability.

The Ombudsman had tirelessly held dialogues and conducted symposia on graft and corruption control among the students, non-governmental organizations, and the public sector.

## VII. Linkages with other Government Institutions and International Corruption Fighters

Ombudsman Desierto enlisted the active collaboration of other government agencies and international anti-corruption associations. He initiated a joint project with the DECS to implement the corruption prevention and control education modules for the elementary and secondary levels.

He forged partnership with the Movie and Television Review and Classification Board (MTRCB) with the aim of protecting the youth from imbibing distorted values and imitating corrupt behaviors from movie and television programs.

As the key implementor of anti-graft laws, Ombudsman Desierto also ensured an efficient coordination among the anti-corruption agencies, through the formation of the Inter-Agency Coordinating Council, which includes the Office of the Ombudsman, the Commission on Audit, the Civil Service Commission, the Department of Justice, the National Bureau of Investigation, and the Presidential Commission Against Graft and Corruption.

In his pursuit of good governance and the goal for a graft-free Philippines, he launched the NATIONWATCH to reflect the pivotal roles played by the Integrated Bar of the Philippines (IBP) and the National Press Club in the country's justice system.

Ombudsman Desierto is likewise active in the development of anti-money laundering strategies with the International Ombudsman Institute (IOI). The Office of the Ombudsman has been actively participating in the affairs of the Asian Ombudsman's Association and the World Ombudsman Institute. Through his inspired leadership, the Office also successfully hosted the Fifth Conference of the Asian Ombudsman's Association which was held in Manila on July 18-21, 2000.

## VIII. Systems and Procedures Improvement

Ombudsman Desierto intensified the conduct of in-depth studies of systems and procedures of other agencies for the purpose of recommending improvements or changes that would prevent incidents of graft and other irregularities. Graft prevention research and data banking, as well as legislative and agency networking, were undertaken. The Office has looked into the systems of the Philippine Veterans Affairs Office, Land Transportation Office, Professional Regulation Commission and other government agencies where delay in the delivery of services is one of the major problems.

More importantly, having imbued the students the sense of responsibility as dynamic participants of society, Ombudsman Desierto received and approved a number of thesis

and research on the subject of graft prevention and control. These materials would be of help to the Ombudsman in the formulation of important policies and programs.

An Extract From

### **Speech On The Impeachment of Warren Hastings** (15 February 1788)

There is a sacred veil to be drawn over the beginning of all governments. Ours in India had an origin like those which time has sanctified by obscurity. Time, in the origin of most governments, has thrown this mysterious veil over them; prudence and discretion make it necessary to throw something of the same drapery over more recent foundations, in which otherwise the fortune, the genius, the talents, and military virtue of this nation never shone more conspicuously. But whatever necessity might hide or excuse or palliate, in the acquisition of power, a wise nation, when it has once made a revolution upon its own principles and for its own ends, rests there. The first step to empire is revolution, by which power is conferred; the next is good laws, good order, good institutions, to give that power stability. I am sorry to say that the reverse of this policy was the principle on which the gentlemen in India acted. It was such as tended to make the new government as unstable as the old. By the vast sums of money acquired by individuals upon this occasion, by the immense sudden prodigies of fortune, it was discovered that a revolution in Bengal was a mine much more easily worked and infinitely more productive than the mines of Potosi and Mexico. It was found that the work was not only very lucrative, but not at all difficult. Where Clive forded a deep water upon an unknown bottom, he left a bridge for his successors, over which the lame could hobble and the blind might grope their way...

*He* have arbitrary power! My Lords, the East India Company have not arbitrary power to give him; the King has no arbitrary power to give him; your Lordships have not; nor the Commons, nor the whole Legislature. We have no arbitrary power to give, because arbitrary power is a thing which neither any man can hold nor any man can give. No man can lawfully govern himself according to his own will; much less can one person be governed by the will of another. We are all born in subjection—all born equally, high and low, governors and governed, in subjection to one great, immutable, pre-existent law, prior to all our devices and prior to all our contrivances, paramount to all our ideas and all our sensations, antecedent to our very existence, by which we are knit and connected in the eternal frame of the universe, out of which we cannot stir.

This great law does not arise from our conventions or compacts; on the contrary, it gives to our conventions and compacts all the force and sanction they can have. It does not arise from our vain institutions. Every good gift is of God; all power is of

God; and He who has given the power, and from Whom alone it originates, will never suffer the exercise of it to be practised upon any less solid foundation than the power itself. If, then, all dominion of man over man is the effect of the Divine disposition, it is bound by the eternal laws of Him that give it, with which no human authority can dispense—neither he that exercises it, nor even those who are subject to it; and if they were mad enough to make an express compact that should release their magistrate from his duty, and should declare their lives, liberties, and properties dependent upon, not rules and laws, but his mere capricious will, that covenant would be void. The acceptor of it has not his authority increased, but he has his crime doubled. Therefore can it be imagined, if this be true, that He will suffer this great gift of government, the great, the best, that was ever given by God to mankind, to be the plaything and the sport of the feeble will of a man, who, by a blasphemous, absurd, and petulant usurpation, would place his own feeble, contemptible, ridiculous will in the place of the Divine wisdom and justice?

The title of conquest makes no difference at all. No conquest can give such a right; for conquest, that is force, cannot convert its own injustice into a just title by which it may rule others at its pleasure. By conquest, which is a more immediate designation of the hand of God, the conqueror succeeds to all the painful duties and subordination to the power of God which belonged to the sovereign whom he has displaced, just as if he had come in by the positive law of some descent or some election. To this at least he is strictly bound: he ought to govern them as he governs his own subjects. But every wise conqueror has gone much further than he was bound to go. It has been his ambition and his policy to reconcile the vanquished to his fortune, to show that they had gained by the change, to convert their momentary suffering into a long benefit, and to draw from the humiliation of his enemies an accession to his own glory. This has been so constant a practice, that it is to repeat the histories of all politic conquerors in all nations and in all times; and I will not so much distrust your Lordships' enlightened and discriminating studies and correct memories as to allude to any one of them. I will only show you that the Court of Directors, under whom he served, has adopted that idea—that they constantly inculcated it to him, and to all the servants—that they run a parallel between their own and the native government, and, supposing it to be very evil, did not hold it up as an example to be followed, but as an abuse to be corrected—that they never made it a question, whether India is to be improved by English law and liberty, or English law and liberty vitiated by Indian corruption.

No, my Lords, this arbitrary power is not to be had by conquest. Nor can any sovereign have it by succession; for no man can succeed to fraud, rapine, and

violence. Neither by compact, covenant, or submission—for men cannot covenant themselves out of their rights and their duties—nor by any other means, can arbitrary power be conveyed to any man. Those who give to others such rights perform acts that are void as they are given—good, indeed, and valid only as tending to subject themselves, and those who act with them, to the Divine displeasure, because morally there can be no such power. Those who give and those who receive arbitrary power are alike criminal; and there is no man but is bound to resist it to the best of his power, wherever it shall show its face to the world. It is a crime to bear it, when it can be rationally shaken off. Nothing but absolute impotence can justify men in not resisting it to the utmost of their ability.

Law and arbitrary power are in eternal enmity. Name me a magistrate, and I will name property; name me power, and I will name protection. It is a contradiction in terms, it is blasphemy in religion, it is wickedness in politics, to say that any man can have arbitrary power. In every patent of office the duty is included. For what else does a magistrate exist? To suppose for power is an absurdity in idea. Judges are guided and governed by the eternal laws of justice, to which we are all subject. We may bite our chains, if we will, but we shall be made to know ourselves, and be taught that man is born to be governed by law; and he that will substitute will in the place of it is an enemy to God.

Mr. Hastings has no refuge here. Let him run from law to law; let him fly from the Common Law and the sacred institutions of the country in which he was born; let him fly from acts of Parliament, from which his power originated; let him plead his ignorance of them, or fly in the face of them. Will he fly to the Mahomedan law? That condemns him. Will he fly to the high magistracy of Asia to defend the taking of presents? Padishah and the Sultan would condemn him to a cruel death. Will he fly to the Sophis, to the laws of Persia, or to the practice of those monarchs? I cannot utter the pains, the tortures, that would be inflicted on him, if he were to govern there as he has done in a British province. Let him fly where he will, from law to law; law, I thank God meets him everywhere, and enforced, too, by the practice of the most impious tyrants, which he quotes as if it would justify his conduct. I would as willingly have him tried by the law of the Koran, or the Institutes of Tamerlane, as on the Common Law or Statute Law of this Kingdom...

# THE PREVENTION OF CORRUPTION ACT, 1988

## CHAPTER I - PRELIMINARY

### 1. Short title and extent

- (1) This Act may be called the prevention of Corruption Act, 1988.
- (2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India outside India.

### 2. Definitions. - In this Act, unless the context otherwise requires, --

- (a) "election" means any election, by whatever means held under any law for the purpose of selecting members of Parliament or of any Legislature, local authority or other public authority;
- (b) "public duty" means a duty in the discharge of which the State, the public or the community at large has an interest;

Explanation.-- In this clause "State" includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956.);

#### (c) "public servant" means --

- (i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;
- (ii) any person in the service or pay of a local authority;
- (iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956.);
- (iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commission appointed by such court;

(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;

(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956.);

(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation 1.- Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2.- Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

## **CHAPTER II - APPOINTMENT OF SPECIAL JUDGES**

**3. Power to appoint special Judges.-** (1) The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely :-

(a) any offence punishable under this Act; and

(b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

(2) A person shall not be qualified for appointment as a special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973 (2 of 1974.).

**4. Cases triable by special Judges.-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974.), or in any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by special Judges only.

(2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the special Judge appointed for the case, or where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government.

(3) When trying any case, a special Judge may also try any offence, other than an offence specified in section 3, with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974.), be charged at the same trial.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974.), a special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

**5. Procedure and powers of special Judge.-** (1) A special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 (2 of 1974.), for the trial of warrant case by Magistrates.

(2) A special Judge may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of sub-sections (1) to (5) of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974.), be deemed to have been tendered under section 307 of that Code.

(3) Save as provided in sub-section (1) or sub-section (2), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974.), shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special Judge; and for the purposes of the said provisions, the Court of the special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a special Judge shall be deemed to be a public prosecutor.

(4) In particular and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of sections 326 and 457 of the Code of Criminal Procedure, 1973 (2 of 1974.), shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, a special Judge shall be deemed to be a Magistrate.

(5) A special Judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

(6) A special Judge, while trying an offence punishable, under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.(Ord.38 of 1944.)

**6.Power to try summarily.** - (1) Where a special Judge tries any offence specified in sub-section (1) of section 3, alleged to have been committed by a public servant in relation to the contravention of any special order referred to in sub-section (1) of section 12A of the Essential Commodities Act, 1955 (10 of 1955.) or of an order referred to in clause (a) of sub-section (2) of that section, then, notwithstanding anything contained in sub-section (1) of section 5 of this Act or section 260 of the Code of Criminal Procedure, 1973 (2 of 1974.), the special Judge shall try the offence in a summary way, and the provisions of sections 262 to 265 both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the special Judge to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.

(2) Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974.), there shall be no appeal by a convicted person in any case tried summarily under this section in which the special Judge passes a sentence of imprisonment not exceeding one month, and of fine not exceeding two thousand rupees whether or not any order under section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the special Judge.

### **CHAPTER III - OFFENCES AND PENALTIES**

**7. Public servant taking gratification other than legal remuneration in respect of an official Act.** - Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations.-- (a) "Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will when serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification." The word 'gratification' is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing." A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

**8. Taking gratification, in order, by corrupt or illegal means, to influence public servant.-** Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for including, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

**9. Taking gratification, for exercise of personal influence with public servant.-** Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for including, by the exercise of personal influence, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

**10. Punishment for abetment by public servant of offences defined in section 8 or 9.-** Whoever, being a public servant, in respect of whom either of the offences defined in section 8 or section 9 is committed, abets the offence, whether or not that offence is

committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

**11. Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant.** - Whoever, being a public servant, accept or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

**12. Punishment for abetment of offences defined in section 7 irregular 11.** - Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

**13. Criminal, misconduct by a public servant.** - (1) A public servant is said to commit the offence of criminal misconduct.-

(a) if he habitually accepts or obtained or agrees to accept or attempts to obtain from any person for himself or for any other person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceedings or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he, --

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public, interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation.-- For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

**14. Habitual committing of offence under sections 8, 9 and 12.-** Whoever habitually commits --

(a) an offence punishable under section 8 or section 9; or

(b) an offence punishable under section 12.

shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to seven years and shall also be liable to fine.

**15. Punishment for attempt.-** Whoever attempts to commit an offence referred to in clause (c) or clause (d) of sub-section (1) of section 13 shall be punishable with imprisonment for a term which may extend to three years and with fine.

**16. Matters to be taken into consideration for fixing fine.-** Where a sentence of fine is imposed under sub-section (2) of section 13 or section 14, the court in fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction

is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.

#### **CHAPTER IV - INVESTIGATIONS INTO CASES UNDER THE ACT**

**17. Persons authorised to investigate.**- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 ( 2 of 1974.), no police officer below the rank, --

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the metropolitan areas of Bombay , Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973 (2 of 1974.), of an Assistant Commissioner of Police;

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent, rank,

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

**18. Power to inspect bankers books.**- If from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under section 17 and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers' books in so far as they relate to the accounts of the persons suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this section:

Provided that no power under this section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.-- In this section, the expressions "bank" and "bankers' books" shall have the meanings respectively assigned to them in the Bankers' Books Evidence Act, 1891 (18 of 1891.).

## **CHAPTER V - SANCTION FOR PROSECUTION AND OTHER MISCELLANEOUS PROVISIONS**

**19. Previous sanction necessary for prosecution.** - (1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction, --

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974.), --

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.-- For the purposes of this section, --

(a) sanction includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

**20.Presumption where public servant accepts gratification other than legal remuneration.**- (1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) or sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

**21. Accused to be a competent witness.**- Any person charged with an offence punishable under this Act, shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that --

(a) he shall not be called as a witness except at his own request;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless --

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his pleader asked any question of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

**22. The Code of Criminal Procedure, 1973, to apply subject certain modifications.**-

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974.), shall in their application to any proceeding in relation to an offence punishable under this Act have effect as if, --

(a) in sub-section (1) of section 243, for the words "The accused shall then be called upon", the words "The accused shall then be required to give in writing at once or within such time as the Court may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely and he shall then be called upon" had been substituted;

(b) in sub-section (2) of section 309, after the third proviso, the following proviso had been inserted, namely :--

"Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section 397 has been made by a party to the proceeding.";

(c) after sub-section (2) of section 317, the following sub-section had been inserted, namely :--

"(3) Notwithstanding anything contained in sub-section (1) or section (2), the Judge may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader and record the evidence of any witness subject to the right of the accused to recall the witness for cross-examination.';

(d) in sub-section (1) of section 397, before the Explanation, the following proviso had been inserted, namely :--

"Provided that where the powers under this section are exercised by a Court on an application made by a party to such proceedings, the Court shall not ordinarily call for the record of the proceedings:--

(a) without giving the other party an opportunity of showing cause why the record should not be called for; or

(b) if it is satisfied that an examination of the record of the proceedings may be made from the certified copies."

**23.Particulars in a charge in relation to an offence under section 13 (1) (c).-** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974.), when an accused is charged with an offence under clause (c) of sub-section (1) of section 13, it shall be sufficient to describe in the charge the property in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219 of the said Code;

Provided that the time included between the first and last of such dates shall not exceed one year.

**24.Statement by bribe giver not to subject him to prosecution.-** Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 12.

**25. Military, Naval and Air Force or other law not to be affected.** - (1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under the Army Act, 1950 (45 of 1950.), the Air Force Act, 1950 (46 of 1950.), the Navy Act, 1957 (62 of 1957.), the Border Security Force Act, 1968 (47 of 1968.), the Coast Guard Act, 1978 (30 of 1978.) and the National Security Guard Act, 1986 (47 of 1986.).

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the court of a special Judge shall be deemed to be a court of ordinary criminal justice.

**26. Special Judges appointed under Act 46 of 1952 to be special Judges appointed under this Act.** - Every special Judge appointed under the Criminal Law Amendment Act, 1952, for any area or areas and is holding office on the commencement of this Act shall be deemed to be a special Judge appointed under section 3 of this Act for that area or areas and, accordingly, on and from such commencement, every such Judge shall continue to deal with all the proceedings pending before him on such commencement in accordance with the provisions of this Act,.

**27. Appeal and revision.** - Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 (2 of 1974.) on a High Court as if the court of the special Judge were a court of Session trying cases within the local limits of the High Court.

**28. Act to be in addition to any other law.** - The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.

**29. Amendment of Ordinance 38 of 1944.** - In the Criminal Law Amendment Ordinance, 1944, --

(a) in sub-section (1) of section 3, sub-section (1) of section 9, clause (a) of section 10, sub-section (1) of section 11 and sub-section (1) of section 13, for the words "State Government", wherever they occur, the words "State Government or, as the case may be, the Central Government" shall be substituted;

(b) in section 10, in clause (a), for the words "three months", the words "one year" shall be substituted;

(c) in the Schedule, --

(i) paragraph 1 shall be omitted;

(ii) in paragraphs 2 and 4, --

(a) after the words "a local authority", the words and figures "or a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956.) or a society aided by such corporation, authority, body or Government company" shall be inserted;

(b) after the words "or authority", the words "or corporation or body or Government company or society" shall be inserted;

(iii) for paragraph 4A, the following paragraph shall be substituted, namely :-

-

"4A.An offence punishable under the Prevention of Corruption Act, 1988.";

(iv) in paragraph 5, for the words and figures "items 2, 3 and 4", the words, figures and letter "items 2, 3, 4 and 4A" shall be substituted.

**30.Repeal and saving.**- (1) The Prevention of Corruption Act, 1947 (2 of 1947.) and the Criminal Law Amendment Act, 1952 (46 of 1952.) are hereby repealed.

(2) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897 (10 of 1897.), anything done or any action taken or purported to have been done or taken under or in pursuance of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under or in pursuance of the corresponding provision of this Act.

**31.Omission of certain sections of Act 45 of 1860.**- Sections 161 to 165A (both inclusive) of the Indian Penal Code shall be omitted, and section 6 of the General Clauses Act, 1897 (10 of 1897.), shall apply to such omission as if the said sections had been repealed by a Central Act.

## VALUE AND ETHICS IN ADMINISTRATION

(Talk delivered in I STM Executive Development Programme, 4.10.2001, New Delhi)

Values are the fundamental principles, which govern our perceptions and action. For example the recent terrorist attack on 11<sup>th</sup> September on the twin towers of the World Trade Centre at New York and the Pentagon at Washington has shocked in the world. Majority of the people who love a peaceful life would condemn the action, which has resulted in so much of damage to life and property. But then those 19 people who were behind the hijacking of the plane leading to the tragedy apparently also had values of a different type. Those who are condemning the terrorist attack probably value the peace in a society, respect for life, not causing harm to any people as important values because it is based on such values that a society can peacefully progress. On the other hand, those who willfully caused the terrorist attack also had values; probably they were motivated by a different set where causing such willful damage served a definite purpose. I am giving this example only to show how every action of individuals is guided ultimately by the values cherished by them.

2. What should be the values that are important in administration? By administration we mean public administration. One word, which is now becoming increasingly popular, is governance. Governance is what the government does. Basically good public administration will lead to good governance. The primary value in good governance is the rule of law. When the society was evolving, it was possible to have the rule of the ruler where the most powerful person by seizing power or by tradition comes to power and is able to rule the country based on his whims and fancies. On the other hand, any modern administration today goes by the rule of the law. The respect for the rule of law therefore is of primary importance. This concept of the rule of law was articulated in our scriptures by the concept of "dharma". Even the ruler was supposed to follow dharma because if a ruler protects dharma, dharma will protect him. *Dharmo rakshati rakshitaha.*

3. What will be the essence of good governance if it means rules of law? It will mean that the law will be equal for all. Article 14 of our Constitution enshrines this principle of equality before law and equal protection of the law. It is such equality, which is going to ensure that in a society all citizens are treated equally and are able to realize their full potential. We have adopted a democratic form of government where the legislature passes the law, the judiciary interprets the law and the executive consisting of the permanent bureaucracy and the political executive elected from time to time, implement the law.

4. It is in the implementation of the laws that other values come in. For example one important value will be fairness and equal treatment of all citizens, which has been already mentioned above. Another equally important value would be to see that law is not

interpreted in such a way to cause benefit to the public servant himself. Corruption results when a public servant misuses his position to get private gain. It is corruption that is causing a lot of bad governance in our system. India ranks as one of the most corrupt countries in the world, ranking 72 out of 91 in the corruption Perception Index of Transparency International a Berlin based NGO. The full index is given in the table below.  
CPI 2001 Ranking by Transparency International

1.	Finland	24	Belgium	47	Bulgaria	70	Venezuela
2.	Denmark	25	Portugal	48	Croatia	71	Honduras
3.	New Zealand	26	Botswana	49	Czech Republic	72	INDIA
4.	Iceland	27	Taiwan	50	Colombia	73	Kazakhstan
5.	Singapore	28	Estonia	51	Mexico	74	Uzbekistan
6.	Sweden	29	Italy	52	Panama	75	Vietnam
7.	Canada	30	Namibia	53	Slovak Republic	76	Zambia
8.	Netherlands	31	Hungary	54	Egypt	77	Cote-d'Ivoire
9.	Luxembourg	32	Trinidad & Tobago	55	El Salvador	78	Nicaragua
10.	Norway	33	Tunisia	56	Turkey	79	Ecuador
11.	Australia	34	Slovenia	57	Argentina	80	Pakistan
12.	Switzerland	35	Uruguay	58	China	81	Russia
13.	United Kingdom	36	Malaysia	59	Ghana	82	Tanzania
14.	Hong Kong	37	Jordan	60	Latvia	83	Ukraine
15.	Austria	38	Lithuania	61	Malawi	84	Azerbaijan
16.	Israel	39	South Africa	62	Thailand	85	Bolivia
17.	USA	40	Costa Rica	63	Dominican Rep.	86	Cameroon

19.	Chile	41	Mauritius	64	Moldova	87	Kenya
20.	Ireland	42	Greece	65	Guatemala	88	Indonesia
21.	Germany	43	South Korea	66	Phillippines	89	Uganda
22.	Japan	44	Peru	67	Senegal	90	Nigeria
23.	Spain	45	Poland	68	Zimbabwe	91	Bangladesh
24.	France	46	Brazil	69	Romania		

5. The damage that is caused to the country was also highlighted by a study made recently by the PHD Chamber of Commerce reported in the Economic Times 4.9.2001. The report is reproduced below:

*According to a study by PHD Chamber of Commerce and Industry, investment would increase by 2.9 per cent of GDP and GDP growth by 1.3 per cent if corruption index improves by one standard deviation or around 15 per cent. Implication is that India is loosing its least Rs.63,800 crore worth of additional investment per annum, roughly three times the foreign direct investment(FDI) we are attracting now and Rs.28,600 crore of consequent national income per annum.*

*The unaccounted money in India is estimated to be in the range of Rs.350 to 700 thousand crore more than the combined revenue of the Centre and the state government in the last fiscal.*

*A survey of exporters by Exim Bank found that 64 per cent of interviewed face major problems with customs clearance processes and with port authorities. Exporters spend 1-15 per cent of export revenue to grease the corruption machinery. The international level evidence is stark.*

*Surprisingly, corruption has not always been perceived to have a negative impact upon economic development and growth. One view is that corruption acts as an efficient lubricant for facilitating developing in a highly regulated and slow moving economic environment as it enables actors to cross barriers which hamper economic decision making.*

*However, the fact is that the impact of corruption is systematic in nature. It generates negative economy wide externalities that denigrate the performance of the system as a whole and compromise the economy's long-term dynamic efficiency.*

*Corruption leads to the favouring of inefficient producers, distorts the allocation of scarce public resources and causes leakage of revenue from government coffers to private hands. Large scale tax evasion erodes the tax base and in the process helps generate black money. Corruption in the economy leads to inflated government expenditures and scarce resources are squandered on uneconomic projects because of their potential to generate lucrative pay off. Hence it is not uncommon to find schools without students, teachers without schools, hospitals without doctors or medicines, and so on, though on paper all expenditures have been accurately accounted for. The result is the crowding out of investment in priority sectors such as education or health. Corruption in post independence India is attributed to an over-regulated environment in which the state played a pre-dominant role in economic decision making providing powerful incentives to bureaucrats and those in power to indulge in corruption.*

*The economic liberalization and the associated opening up of the Indian economy has significantly reduced the structural rigidities in the system.*

6. The third important value in good governance or public administration is that the original objectives of the various rules and schemes must be realised. Dr. N.C. Saxena made a study some time back and pointed out that many of the pro poor schemes and laws have in fact resulted in being anti poor. One of the important values for a public servant must be to see whether the original objective underlying the law is not distorted or totally neutralized by the manner of implementation.

7. The manner of implementation also brings in another dimension to the work done by the public servants. This is the dimension of quality. Quality is nothing but a quest for perfection. The concept of perfection was articulated in the old shloka which says out of perfection also comes perfection. *Om purnamadha purnamidham purnat purnamudachyate purnasya purnmadaya purnamevavshishvate.*

8. This concept of quality became significant especially in the world of business because quality emerged as a competitive weapon. The Japanese in the 1980s were able to defeat the Americans in many sectors like automobiles and electronics was through better quality products. This in turn led to the realisation that one cannot have quality products and services unless the ethos of quality was internalized through the entire manufacturing process. This gave rise to concepts like Total Quality Management and systems like ISO 9000.

9. When it comes to public administration, if we want to have good governance not only should we have rules and regulation, systems and procedures, they must also be implemented in the right spirit. That is where quality comes. How do we ensure that the public servants take this professional pride in their work? Recently looking at the degree

of corruption and loss of values in administration, the UPSC formed a committee under the chairmanship of Prof. Y.K. Alagh to go into the question of inculcating values and why values were not internalized by public servants. In the context of the committee's work I had also presented my own experience of how I developed values in administration.

10. Values are formed by a series of process of interaction of individual with his environment. As we are born, we are subject to the values and concepts of our parents, teachers and colleagues. Peer pressure probably these days is more important especially since the joint family has failed. In my own case, I think I was fortunate to have parents who were very God fearing and also scrupulously honest. In fact this perhaps runs in the family. My maternal grandfather, Shri C. Balakrishna Rao who was the Chief Engineer in the State of Travancore, at Thiruvananthapuram, Kerala is even today remembered for his integrity. It is said that when he was implementing the water supply scheme which has stood the test of time to meet the demands of water supply of the city of Thiruvananthapuram, the contractor probably offered him a bribe of Rs.3 lakhs which in the 1930s must have been many times more worth that it is today. My grandfather apparently ensured that the entire amount was credited to the government. He was also able to complete the project in less than the project cost, which drew the attention and admiration of the then Viceroy Lord Willington.

11. The commitment to integrity has I think a direct bearing in religion. Religion, if we come to think of it ultimately has influence in a society because it ensures the smooth and all round growth of a society. It ensures that the members follow the religious precepts. In our Hindu religion we talk about the need for speaking the truth and observing Dharma *Satyam vada, dharmam chara*. In the case of the Christian religion, we have the Ten Commandments. Religion I think is a very important fact to nurture cultural values. Perhaps it is the decline of religion in our society, which has also led to erosion of values. In the United States today we find that six-year-old schoolboys are shooting and killing their friends. This can be explained only in terms of the erosion of values and the lack of parental guidance supplemented by the gun culture which perhaps gets an indirect boost from television programmes, video games etc. which have an element of violence about them.

12. When it comes to the civil service, we are very much influenced by our peers as well as our seniors. Looking at my own style of work, I find that there are two major features. One is that I am extremely impatient and want to get things done fast. Within the bureaucracy, I have tried to do things as fast possible. At the same time, I am also trying to bring in an intellectual content by way of analysis and overall strategies taking the larger picture into account and not get lost in the details. As I look at myself I find that my behaviour has been moulded by some of the senior officers under whom I worked and whom I admire even today. The first is Shri LP Singh, ICS who was Home Secretary in 1966-68 when I worked in the Ministry of Home affairs as Under Secretary in the

Political Division. Shri Singh had the capacity for enormous amount of work and attention to detail. His view was that if one was slack in smaller matters, one was bound to be slack in larger issues also. This attention to detail and hard work impressed me. In addition Shri Singh also felt that there should be an intellectual content especially making explicit what many a time would appear to be seat of pants thinking. In the Ministry of Home Affairs, in the Political Division, I was entrusted with the analysis of various movements and constantly an attempt was made to go below the surface to find out what made certain developments possible, be it violence, communal riots, a movement like Anand Marg and so on. It is this capacity for hard work and analysis, which I think I have imbibed, from Shri L P Singh.

13. Another officer who probably tremendously influenced me was Shri LR Dalal, ICS who was Chief Secretary of Gujarat for four and a half years. I became the Controller of Accommodation, Under Secretary, PWD in 1963. I had to handle cases of requisition of houses, which had become necessary immediately on the formation of Gujarat from 1.5.1960. Shri Dalal was a very hard taskmaster. For him the most valuable thing was time. He wanted things done yesterday. It is this exposure with hardly three years of service in my career, I think moulded my attitude to see that I also ensured that things moved fast. Generally people associate delay and red tape with government but Shri Dalal was a thorough antithesis of this culture of delay.

14. Later on I used to admire three IAS officers, Shri SM Ghosh, IAS (1951), Shri Sivagnanam, IAS (1952) and Shri SJ Coelho, IAS (1956). Each one of them had one quality, which I admired. Shri Ghosh was superb in his articulation of English and that too giving the broad perspective with his intellectual sweep covering history, literature and at the same time with the appropriate statistical muscle to support his argument with an impish sense of humour. Shri Sivagnanam was a human computer. He knew everything about every subject and one could very rarely challenge him on the accuracy of his statement. For him once he had seen a file, he had virtually memorised every note. Thoroughness in paperwork is something, which was remarkable about Sivagnanam. Shri Coelho was great go-getter executive. Whenever there was any problem or project to be implemented, government looked up to Shri Coelho. He deservedly got a Padma Shri. In 1965 when Pakistan attacked India, he was the young collector in charge of the Kutch district. We all know how unprepared India was at that time for facing the Pakistani attack and the leadership qualities of Shri Coelho came out very brightly. Later on I succeeded Shri Coelho as the Managing Director of Gujarat Narmada Valley Fertiliser Company in Bharuch. Here again Shri Coelho showed his commitment to work by going straight from Delhi where he was joint secretary on to Bharuch where even proper education facilities for his daughter were not available, much less any creature comforts. But he saw to it that the project was completed without delay. This was a major project at that time costing more than Rs.462 crores to put up the single largest ammonia urea plant with a capacity for producing 1350 tons of ammonia and 1800 tons of urea per day.

Perhaps all these again reinforced the three aspects which I had learnt for Shri Dalal and Shri Singh namely attention to detail and hard work, intellectual analysis and a drive to complete things in time.

15. I am not praising myself but making an honest attempt to find out how my approach to work has been shaped by these senior colleagues with whom I had worked. This also is perhaps an example of the process of value osmosis by which individuals absorb values from others. Rajaji pointed out famously that the charcoal in the kitchen, the graphite in the pencil and the diamond in the jewelry were all forms of carbon. If a lifeless substance like carbon can be a low value charcoal, middle value graphite or high value diamond depending up on temperature, pressure and the circumstances, how much greater is the potential of human beings who are alive and who are much more evolved?

16. In the ultimate analysis valued adopted and practiced by an individual depends on the following:

- (a) Enlightened self-interest: After all every one wants to survive and thrive. Values, which are perceived to be helpful in this effort, will be accepted.
- (b) Desire for improvement: There is an inherent desire for improvement in everyone's heart. This is the root of jealousy, ambition or keeping up with the Jones. Role models help to ingrain values because of this craving for rising towards an ideal.
- © A variation of (b) is the hierarchy of needs of Abraham Maslow. We adopt values depending upon where we are in the hierarchy of needs be it basic physical needs, safety/security needs, self-actualization or ego needs or social needs.

17. When we analyse the dynamics of values therefore we should also not forget that there is always a potential for change in the human behaviour. Probably this explains why suddenly people change their behaviour. It is well known that every sinner has a future and every saint has a past. I think that this shows that when it comes to values there could be dramatic changes depending upon the circumstances. Therefore we come across officers who towards the end of their career when they are under severe financial strain due to social requirements like dowry for their daughters etc. become corrupt. It is in such circumstances, I think a person's mettle is tested.

18. This is where the second aspect of sustaining of values comes. While the individual imbibes the values, they can be sustained only if the atmosphere is also conducive for certain values. Unfortunately today we find a dissonance between the social values as accepted by the society and the ideals for which everybody pays lip service at the individual level. For instance we have society, which honours only money power; knowledge and individual achievements are not honoured. I was once speaking to Prof. Chao of South

Korea who built the Pohang steel plant. He said that in South Korea a professor is more honoured than many others in the society and as a result Koreans had no difficulty in getting non-resident Koreans to come back and help in building the Pohang steel plant or other major projects in Korea. Perhaps there is something in the Confucian ethos, which gives respect to the learned person. We have also in our society and our Hindu ethos the concept that *swadeshi pujiyate raja vidwan sarvatre pujiyate* but when in practice it is money power and clout that matters. Criminalisation of our politics and society is the direct consequence of this erosion of values.

19. The cricketers were great heroes for many particularly the youth in our country. The match fixing scam I think has shown that these heroes had also feet of clay. The societal values in a way are the result of the general consensus. Even where a general consensus in terms of traditions and law lay down certain values depending upon the implementation of the laws and traditions ultimately the values prevail. We therefore find in this conflict between the *jure* and *de facto* position on values when it comes to social values *de facto* ultimately prevails.

20. How does one then bring about changes in the value perceptions of a society? Here I depend upon five concepts. The first is the concept of Bertrand Russell who said that every opinion becomes respectable if you hold it for a sufficiently long time. The second is that of Victor Hugo who said that nothing is more powerful than an idea whose time has come. The third is that of Alexis De Tocquville who said that the inevitable becomes intolerable the moment it is perceived to be no more inevitable. The fourth is that of Bernard Shaw who said that the reasonable man looks at the world as it is and adjusts himself to the limitations. The unreasonable man wants the world to change to his way of thinking and in this process achieves success. The final concept is that of Michaelangelo who was asked how he made beautiful statues from pieces of marbles, which had no shape. He said that the statue was in his mind and he went on removing from the marble whatever was not part of the statue and soon the statue emerged. I think a combined application of the above five concepts can help in bringing about a change in the social values. As the Central Vigilance Commissioner, I have been trying to apply these concepts in the concept of creating a general consensus against corruption not only at the *de jure* or the lip service level but also at the *de facto* or operational level.

21. Now we can go back to the question raised by the Chairman of UPSC about how the transformation and metamorphosis of idealistic young officers into hard headed, money grabbing corrupt bureaucrats takes place. I think this is the result of the combined impact of the system, the seniors and the social values. Globalisation and the impact of satellite television have promoted a culture of high consumerism. Everybody wants to keep up with the Joneses even if they know that financially they cannot afford to do so. An understanding of the dynamics of the values and how perhaps those dynamics can be

operated for achieving social good may be helpful in any effort at social reformation for better governance.

22. Another concept that should be considered is that while an individual can resist the society and be on his own, majority fall into the pattern of conformance. After all the common behaviour is common is because the majority subscribe to that behaviour. When it comes to corruption, for example, in our country, if we take the population, 10% may be honest, whatever we do, 10% would be congenitally dishonest. 80% depend on the system. In our country we have created a system, which tolerates corruption. In fact the system itself is based on corruption starting with political fund raising through black money operations and so on. We have to focus on the 80% of the majority and see how the system can be modified so that the overall values for good governance are encouraged. If delay comes in the way of good governance, we can have systems and application of IT etc. to improve the system. If corruption is perceived to be a low risk high profit activity and hence encouraged, we can ensure that corruption becomes a high-risk activity by appropriate in the change and its implementation. If we find that good governance has eroded because of lack of transparency and right to information, this problem can be overcome. In other words, a continuous focus on the system to encourage the values, which ultimately encourage good governance, may be the only option for realising a better and less corrupt India.

23. The individual's sense of values therefore becomes important when it comes to good governance. If the public servants are only going to be motivated by money, greed or keen to exploit their position, then to that extent we cannot have good governance. Good governance depends not only on the individual's values but also on systems and procedures, rules and regulations. If we analyse the systems and procedures, as mentioned earlier, many a time the original objectives may be lost. Doing a think rightly becomes more important than doing the right things. It is therefore necessary to be constantly aware of the objectives behind the various government policies, rules and procedures if we want to maintain good governance.

24. This in turn will call for using some of the techniques developed elsewhere for fine-tuning the rules and procedures. Some concepts, which can be used, are

- a) Business process reengineering - This concept is based on the principle that if today systems and procedures were to be introduced or organizations to be set up, will they be designed in the same form as we find in existing organizations, systems and procedures?
- b) The techniques developed for creating new ideas in the context of industrial engineering namely the five techniques of elimination, combination resequencing, substitution and modification.
- c) The concept of citizens charter and the articulation of the commitment of an organization to provide some services will have to be implemented in a

real spirit. This concept was borrowed by our government from the British government under John Major. Whereas in Britain there is a provision for the amount of penalty to be suffered by the department in case they are not able to deliver the services as promised in the citizen's charter, such a provision is not there in our system.

25. The need therefore is for looking at our systems constantly to see that in operation the whole process of governance does not stray from the original values under which policies have been framed. That brings us to the next larger issue of ethics in administration. Ethics is nothing but a code of moral conduct. The conduct as we have seen earlier, depends on values and for any society or organization to function, it is necessary that there are codes of conduct. Integrity or honesty has been valued as one of the most important value. It is interesting to see that successful business leaders like Jack Welch or Narayanamuthy have also highlighted this aspect. Jack Welch says:

*"Excellence and competitiveness are totally compatible with honesty and integrity. The A student, the four-minute, the high-jump record holder - all strong winners - can achieve those results without resorting to cheating. People who cheat are simply weak".*

*"A professor gave a hypothetical case to his business school students. He said, 'If you were running a business for a larger company and were about to book a \$50 million order, but to do so, you had to deposit \$ 1 million in a Swiss bank account to an agent, would you do it? Approximately 40 per cent to 50 per cent said they would. I was shocked! I told the students someone was teaching them the wrong things. This was not one of those cases where you had to interpret the law; this was a simple bribery case".*

*"In the end, your integrity is all you've got".*

26. We try to formulate and guide the conduct of the public servants through the formal systems like the Conduct Rules. Violation of these becomes either vigilance cases involving corruption or cases having only an administrative dimension. As the CVC, I have been looking at the issue of corruption, which is perhaps the most negative aspect of our governance in the country today. Corruption is anti economic development, anti national and anti poor.

27. We are a billion-strong country and we have wide differences in terms of social and economic development of different parts of the country. From a sociological point of view, the family is the basis of our society. The joint family and caste are only the extended versions of the family. The Joint family might have been eroded in recent times especially in the urban areas but kinship, in the form of caste, in the form of caste, still

prevails, Casteism gets a continuous boost because this seems to have become the basis of our entire politics. Jawaharlal Nehru used to talk about building India into a casteless classless society. The classless society never evolved and, instead of building a casteless society, we have today a highly atomised society where caste defines the basis of politics. From casting our votes in the first election in 1952 we have come to the stage of voting our caste in recent elections.

28. This organisation of our society based on caste and kinship and the differences in the stages of development between the states provides a very strong rationale for corruption. Caste and nepotism become the basis for distribution of patronage. One of the Chief Ministers is reported to have replied when asked why he was favouring his relatives "If I do not favour my relatives, whose relatives am I supposed to favour?" This concept of standing by one's caste or family is also reflected in the sense of tribalism of the corrupt. In addition to the social bond provided by caste and family ties, the common financial interest is another cementing factor. We are largely an illiterate society with at least 40% of our people being illiterate. Hence, emotions dictate politics. Politics is the route to power in a democracy. So when the politics is based on caste and the voter takes decisions at the emotional level, corruption is probably considered more tolerable.

29. One of the social roots of corruption in India can be traced to our Indian culture of tolerance. Any number of examples are given in the puranas where the sinner having led a life of sin can get redemption by taking the name of Lord Narayana in his last moments as in the case of Ajamila. In social terms this has come to be accepted. People who lived a life of sine like the prodigal son return to the straight and narrow path at some stage, usually late in life.

30. If we examine the root of corruption, we will find that it arises perhaps from the extreme attachment of people to their families. Nepotism is natural in this situation. Corruption, as defined by the World Bank, is the use of public office for private profit. A person in office feels that he should earn enough not only for himself and his lifetime but also for his children, grand children and perhaps seven generations. That is probably the basic motive behind the enormous accumulation of wealth by the corrupt in our country today.

31. Equally important is another psychological factor. Power is never demonstrated in a society unless it is misused. In certain communities being as corrupt as possible and amassing as much wealth as possible is seen as a macho demonstration of "competence". If this is the attitude, those sectors of society that did not have an opportunity to share the power cake in the past may also rationalise that they must also be able to emulate those who had earlier enjoyed misuse of their power and amassed wealth by rampant corruption. Thus a vicious cycle of corruption is launched where a society tolerates amassing of wealth and does not question how that wealth is accumulated.

32. There was a time when socially a corrupt person was considered not a desirable person. Such persons were not held in high esteem. But today we have reached such a cynical stage that corruption is not only taken for granted but the capacity for making money as much as possible from one's position is welcomed. It is said that in France, in the police, those who are corrupt are socially ostracized. Small measures like social boycott or ostracism of corrupt persons, if this could be inculcated, can also go a long way in creating an appropriate psychological atmosphere for promoting a culture of integrity.

33. This brings us to another important social root for corruption that is probably getting more accentuated in recent times. This is the spreading cult of consumerism. The electronic media has had a tremendous impact in creating a desire in the mind of everyone to have the best of the consumer goods even at the beginning of life. Newspapers regularly report how domestic servants have been the agents of crime in many cases. Perhaps it is this upstairs-downstairs syndrome or the ostentatious consumption of the well to do and the sense of jealousy created as a result among the deprived which leads to crimes. Consumerism and desire for an ostentatious life style tempts many to make money by hook or crook. Corruption is the result.

34. There was a time when socially a corrupt person was considered not a desirable person. Such persons were not held in high esteem. But today we have reached such a cynical stage that corruption is not only taken for granted but the capacity for making money as much as possible from one's position is welcomed. It is said that in France, in the police, those who are corrupt are socially ostracized. Small measures like social boycott or ostracism of corrupt persons, if this could be inculcated, can also go a long way in creating an appropriate psychological atmosphere for promoting a culture of integrity.

35. Evil social practices also promote corruption. One major social cause that promotes corruption is the dowry system. Every public servant wants to see that his daughter is married off well and there is continuous pressure for having a minimum level of dowry. This may be one of the reasons why one comes across cases where even public servants who have otherwise led a clean life become vulnerable to corruption towards the end of their career. Dowry system is definitely one of the social roots of corruption in our country.

36. Equally important is the social pressure in a competitive society for ensuring that children get the best possible education. Right from kindergarten in every educational institution, there is pressure of competition and education has become commercialized. This has been further accentuated by government policies about affirmative action resulting in a great incentive for self-financing colleges who charge a lot of donation fee and most of it is collected in black. Education pressure and corruption in the education sector is another social factor contributing to corruption in our system.

37. The question that then arises is that if corruption is anti-national, anti-economic development and anti-poor and at the same time it is deep rooted in our society, is it possible to make India less corrupt? What can a citizen do to fight corruption? This guide will help such citizens and groups of such citizens, who form themselves into non-government organizations, to fight corruption. It is not as if every country has to be corrupt. If we look at history, we find that countries that were once considered as very corrupt have become honest over a period of time.

38. There are two approaches to the whole issue of corruption. One approach, which may be considered as pragmatic, realistic and worldly wise, is to accept that corruption is as universal as human nature and it is only the degree of corruption that can perhaps be controlled. The other approach is that corruption can be controlled and countries that were once notorious for corruption have been able to bring in greater probity in public life, thanks to committed and visionary leadership and changes in rules, systems and procedures.

39. Britain itself was not known as a corruption-free country in the 19<sup>th</sup> century. This is what Dr.C.P.Srivastava writes in his book "CORRUPTION - INDIA'S ENEMY WITHIN" (page 86). The suggestion of Dr.Srivastava should be seen in the context of how one Prime Minister of Britain, W.E.Gladstone was able to bring about probity in public life.

***Time for action to arrest and reverse this trend is here and now. What is needed is a new, well thought out programme for national regeneration on the basis of shared ethical values and for the reconnection of all the people to the ideal of transparent integrity in governmental administration as well as in all aspects of political and public life. To fulfill its rightful destiny in the new millennium, the country will have to find ways to move towards an honest and ethics-based polity, an efficient, compassionate and corruption free administration and bureaucracy and a responsible and value based society.***

*Other democratic countries have come out of a virtually intractable state of corruption by adopting and implementing, with courage and determination, a carefully conceived programme involving fundamental changes in the electoral system as well as in governmental administration, especially in the public services. For example the United Kingdom whose public servants were notoriously corrupt in the 18<sup>th</sup> century made a transition across barely 50 years to a regime of extraordinary public probity. This was achieved primarily because of the visionary leadership of the liberal party under W.E.Gladstone who first in his capacity of Chancellor of the Exchequer in 1850s and later as Prime Minister, four times during the period 1868 to 1894 initiated a string of reform measures. The purpose of these measures was to abolish practices with payment of commissions in the army, to define and outlaw corrupt practices by state officials, to*

*introduce competitive examination for admission to a non partisan civil service, to replace fees by salaries in public offices, and to set up systems of financial scrutiny by parliament.*

40. In the twentieth century we have seen how the Independent Commission Against Corruption (ICAC) set up in Hong Kong in 1974 was able to bring greater cleanliness in public life at least till 1997 before the hand over to China. Botswana is quoted by the World Bank as a country that has improved its probity in public life. We have seen the enormous drive and leadership of Flee Kwan Yew who was Prime Minister for a long time, literally making Singapore a very clean country over three decades.

41. While it is true that India is a very corrupt country, it is nevertheless possible that the level of corruption in Indian can be brought down. India can also become like post-Gladstone Britain or post-Lee Kwan Yew Singapore. Success, it is said, is a self-fulfilling prophecy. So also is failure.

42. At the same time, let us also not forget that there are a number of people benefiting from the corrupt system. These are people who occupy positions in government, politics, business, bureaucracy and even educational institutions. But the number of such persons who are benefiting from corruption in all may not be more than 5 crores in our country of 100 crores. It is therefore obvious that if the 95 crores of non-corrupt citizens can come together, the whole situation will change. Anybody familiar with how a nuclear bomb operates knows that there is a critical mass that has to be reached and once this mass is reached, the nuclear chain reaction starts. Today in India there are a number of organizations, which are fighting corruption. A meeting of all these organizations was held under the auspices of the Central Vigilance Commission on July 2, 2001 in New Delhi. One of the main issues that came up was that while individual organizations were trying to fight corruption, such efforts were very few and far between. There is a need to ramp up and scale up the anti-corruption activities so that corruption is fought effectively at all levels and India becomes a corruption free country and as a result realise its full potential. This would mean that India can become an economic and military super power. This guide is designed to provide a common basis for citizens or groups of citizens to come together and mobilize the fight against corruption in a focused and systematic manner so that like other countries, which have fought corruption successfully, India can also reduce the scale of corruption. Today it is possible that we see corruption as inevitable. But it is possible to bring about a change for the better, especially when we consider the following observations made by five eminent men.

43. Bertrand Russell the eminent British philosopher observed "*every opinion becomes respectable if; you hold it for a sufficiently long time.*" Today it may not be respectable to think that Indian can become corruption free. But similar was the situation, at the height of British imperialism, when it was unthinkable that the sun would ever set on the British Empire. Nevertheless, the leaders of our freedom struggle led by Mahatma Gandhi

made the idea, that India can become free of colonialism, a reality. Their opinion about a free India, which at one time might have been considered as a dream or impossibility; became a reality.

44. This goes to prove the truth of the statement made a French writer Victor Hugo who said "*There is nothing more powerful than an idea whose time has come*". Perhaps looking to the extensive corruption in every walk of life that we see in India today, the idea that India must improve and become a less corrupt country is an idea whose time has come.

45. Another French thinker Alexis de Toqueville made the third observation. He said that "*The inevitable becomes intolerable the moment it is perceived to be no more inevitable*". Today the citizens of India may view corruption as inevitable. The purpose of this Guide is to make every Indian citizen realize that corruption is not inevitable. The moment the citizens of the country realise that corruption is not inevitable, then it will become intolerable and we can see a dramatic change coming up in the country for the better.

46. The fourth observation is attributed to the British writer George Bernard Shaw. He said that "*An ordinary person accepts the limitations of life in the society in which he lives and leads a peaceful life. The unreasonable man wants the society to change to his way of thinking and in the process achieves success*". Today, reasonable citizens in India may come to terms with the prevailing corruption and try to lead a peaceful life. The morally aware and activist citizens of the country would be following the footsteps of Mahatma Gandhi and in trying to bring about a change in the system. It may be recalled that when Gandhiji was in South Africa, he was thrown out in the middle of the night from the first class compartment of the train in which he was travelling, even though he had a valid first class ticket, because he was black. Many other Indians in his position would have accepted the injustice of the system and led a peaceful life. But Gandhiji who was a great moral leader thought this to be an unfair system and rebelled against it. Satyagraha was born in the mind of Gandhiji on that railway platform that night in South Africa. The citizens who read and take an activist approach to fighting corruption in our country by reading this guide will be following the footsteps of Mahatma Gandhi.

47. Unless there is a plan of action, mere sentiment or unguided action will not bring results. There is a story about a rat, a cat and an owl. A rat was being harassed by the cat. It went to the owl for the advice. The owl said that the rat could face the fact if it also became a cat. When on the next day the rat went and inquired from the owl how it, a rat, could become a cat, the owl said that he was there to give policy directions but implementation was the rat's problem! The very purpose of this Guide is to empower every Indian citizen who wants to fight corruption and from being weak like the rat to become strong like the cat. For this, the strategy to be followed is the advice given by

Michelangelo Bunoretti, the immensely talented Italian sculptor of the fifteenth century. Michelangelo was asked how he made beautiful statues out of marble that had no shape. He replied that the statue was in his mind and he went on removing from the marble whatever was not part of the statue and the statue emerged. Today every patriotic citizen desires that India must become a corruption free country. How to go about it and ensure that the prevailing corruption is tackled is the main theme of this guide. Specific actions have been indicated so that the vision of a corruption free India can be realized.

48. The basic requirement for any citizen who wants to fight corruption is that he should himself be honest. It is therefore necessary that a citizen who wants to fight corruption must first decide that he will uphold his own moral character and he will not give a bribe or take a bribe. Rajaji, one of the eminent leaders of India, has highlighted that ultimately it is national character that decides the nations's progress.

***“National character is the keystone on which rests the fate and future of our public affairs, not this or that ism.”***

*“National character, again, depends on and in fact is individual rectitude. Movements for the encouragement of personal rectitude, for purifying individual character, are therefore not irrelevant in the context of politics but are bitally connected with our hopes in respect of national affairs”.*

*“National character is the keystone of national affairs. It locks the bricks together like the keystone in the arch. If the keystone is not there, the arch goes to pieces and tumbles down. It is the improvement of individual character that goes to make the uplift of national character, which in turn becomes the keystone in the arch of national prosperity. “Gandhiji, it has been often stated, wished to spiritualize politics. He firmly held the view that we cannot keep politics and morality apart. Indeed he wanted politics to be re-built based on a true and reliable foundation, viz. Individual honesty”.*

*“If the parched field of Indian policies and administration has to get fresh green life and grow, we need the monsoon of purity in national character. And the monsoon consists of little drops falling and uniting to make the rain. Individual purity of character alone can revive the parched field”.*

*“When will the people of India wake up, wake up to the need to work hard, to the need to be honest in all matters and in all walks of life including manufacture and trade? Character, which includes efficient work and truthfulness and purity of mind, is the keystone of the arch both in individual life and in national life. Politics, economics, administration, education, health and hygiene and a score of other things, all call for good character in the individual. Individuals make or mar the nation”.*

49. Basically more of us are selfish. When we face a problem, we are interested in finding immediate solutions. It may sometimes involve breaking the queue or breaking the rules or sometimes it may involve a financial advantage. How many of us insist on a regular receipt with the sales tax duly added when we buy things? In order to save on sales tax, cash transactions have become the rule rather than the exception. Perhaps, the scope for corruption in such department is also correspondingly higher.

50. The second step is spreading awareness about the harmful effects of corruption. There is extensive corruption in our system because there is a vicious cycle starting with political corruption leading to bureaucratic corruption, business corruption and criminalisation of politics. Even though citizens may be suffering from corruption, the results of elections where corrupt candidates are elected again and again raises the question whether the removal of corruption or improving probity in public life is considered relevant by the people at large.

51. 31<sup>st</sup> October is the birthday of Sardar Vallabhbhai Patel. The CVC observes every year the Vigilance Awareness Week for a week beginning from 31<sup>st</sup> October. Citizens and non-government organisations can also observe the Vigilance Awareness Week. In order to spread the message, apart from lectures, debates, seminar etc., where could be competitions and this can be done in an innovative manner. The Chief Vigilance Officer of Engineers India Limited, New Delhi, for example, can be contacted to get material about how imaginatively the message of anti corruption could be spread.

52. Simplification of rules and procedures can be recommended to that the scope for corruption is reduced. There are specific success cases which can be replicated nationwide. For example, the Bangalore Municipal Corporation came up with the self-assessment of property tax when Shri K.Jayaraj, IAS was the Municipal Commissioner. Perhaps every other city can also follow the similar model so far property assessment is concerned and thereby the scope for corruption could be reduced.

53. The CVC, so far as its jurisdiction is concerned, has issued an order on 1<sup>st</sup> December, 1999 about trapping of corrupt public servants. The NGO's can help in trapping of corrupt public servants so far as the organizations under the jurisdiction of CVC are concerned. If the Vigilance Commissioners also follow a similar strategy, such practices can be adopted in the state Governments also.

54. All citizens can participate in the Benami Black Money Scheme launched by the CVC through its order dated 12<sup>th</sup> July, 2000. Our country is corrupt and corruption flourishes because there are people in power who benefit from the present system. Unfortunately those who benefit from the power are also those who have to initiate the change to check corruption. Under these circumstances citizens and their organisations (NGO) can get change initiated only by adopted the following elements of strategy:

- a) Judiciary: Judicial activism has been responsible for bringing about some of the well needed changes. The role played by the judiciary, for example, in ensuring that the environmental pollution in Delhi is reduced is a case in point. The empowering of the CVC as a more effective agency to fight corruption and particularly ensure the autonomy of the CBI and Enforcement Directorate is another example of the role of the judiciary. The Public Interest Litigation is a route that can be used to approach the courts and thereby make the administration change policies or initiate action to check corruption.
- b) Agencies like CVC, Vigilance Commission etc.: Agencies specially designed for fighting corruption like the CVC, Vigilance Commissions, Lok Ayuktas etc. may also be approached by citizens so that they in turn can take action not only in individual cases of corruption but also to bring system changes so far as their jurisdiction is concerned.
- c) Shaping public opinion: In a democracy, the political leaders have to respect public opinion. Shaping of public opinion is, therefore, very essential. In shaping public opinion the electronic and print media can be effectively used. For the media to be used, what is needed is access to information. Therefore Freedom of Information or access to information becomes important. The imaginative way of packaging the message adopted for example by the CVO, EIL can be very useful in this context.
- d) Activism by NGOs: NGOs many a time can play an active and direct role in taking up individual cases for fighting corruption or bringing about system changes. Information regarding the individual NGOs and strategies adopted by them and details about anti corruption activities by various groups in the countries can be accessed at the CVC website <http://cvc.nic.in> where in the section *Council for Clean India all relevant information will be found.*

55. The CFCI will be a virtual organization. There is no intention of making into a registered body or a corporate body. Instead, in the web site of the CVC the names of all the participants of CFCI will be included. As fresh individuals or organizations want to join, after verifying their background, the names will be added to the CFCI. The CFCI web site <http://cvc.nic.in> will contain all information about various techniques adopted to fight corruption and cases of success so that this in turn can inspire others. The basic objective of CFCI is to provide a forum where those who want to fight corruption either as individuals or as a NGO can come together and synergies their activities not only among themselves, but also with formal anti-corruption bodies like the Central vigilance Commission, Vigilance Commissioners/Lok Ayuktas in the States, Central bureau of Investigation etc. In short, CFCI is a forum linking the anti-corruption forces and organizations in the government and the civil society.

56. The CFCI is not a formally registered society, company or corporation. It is a virtual organization. Information about the CFCI are published in the web site of the CVC at <http://cvc.nic.in>. If you would like to synergise your activity with the CFCI, you may give details about yourself and your success in the fight against corruption, if any, so that this can also be included in the CFCI section in the CVC web site. Correspondence with CVC can be made at the following e-mail and snail mail addresses:

e-mail: [nvittal@alpha.nic.in](mailto:nvittal@alpha.nic.in), [vigilance@hub.nic.in](mailto:vigilance@hub.nic.in)

Central Vigilance Commission

Satarktha Bhavan,

GPO Complex, INA,

New Delhi - 110023.

57. Ultimately each person has to decide for himself his sense of values and then decide on his conduct. As a public servant, his basic value should be to be honest, to see that the objectives of the various government programmes are effectively implemented and every citizen is treated with human dignity. The net result of the level of ethics in any organization depends on three factors namely the individual sense of values, the values in the society and the systems and procedures of the organization. If the individual has the highest values, he in turn will be able to influence the other two at least so far as his area of operation is concerned. In this effort, we must realize the significance of the advice of the Chandokya Upanishad, which says that if we apply our knowledge with faith and conviction and also after deep thought, our actions become strong and we will be able to influence our organizations and our course of action.

*Yadeva vidyaya karoti shradhaya upanishadaha tadeva virya vattaram bhavati.*

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## COMBATING CORRUPTION

### QUIZ

Please indicate the **most appropriate** choice

1. High level body which is responsible for formulating and implementing policies in matters relating to Anti-Corruption measures is:

- a) Central Bureau of Investigation
- b) Central Vigilance Commission
- c) Cabinet Secretariat
- d) *Administrative Vigilance Division***

2. Prevention of Corruption Act applies to:

- i. All Government Servants
- ii. Employees of PSUs and Autonomous Bodies
- iii. Ministers, Legislatures, etc.
- iv. Even those who are neither salaried employees of Govt/PSUs/Autonomous Bodies nor people's representatives

- a) *All the four are correct***
- b) Only (i) and (ii) are correct
- c) Only (i), (ii) and (iii) are correct
- d) Only (iii) and (iv) are correct

3. A Government Servant found guilty of taking bribe can be prosecuted under:

- a) Indian Penal Code
- b) *Prevention of Corruption Act***
- c) Either one of the above two
- d) Both of the two

4. In cases involving corruption, the advice of the Central Vigilance Commission is obtained:

- a) Before deciding whether to proceed for Major Penalty or Minor Penalty
- b) At the time of deciding the quantum of penalty
- c) *Both (a) and (b) above***
- d) When the Disciplinary Authority is in need of advice

5. Central Vigilance Commission has been formed in pursuance of the recommendations of

- a) Poornalingam Committee
- b) *Santhanam Committee***
- c) Shanmukam Committee
- d) Ashok Mehta Committee

6. Which one of the following statements is true about the complaints made to the Central Vigilance Commission

- i. Even a junior officer can make complaint against the senior
- ii. Complainant need not reveal his/her identity
- iii. Complaints may be made through e-mail even
- iv. Complainant's identity will be kept confidential

- a) Only (ii), (iii) and (iv) are correct
- b) Only (i), (ii) and (iii) are correct
- c) Only (i), (ii) and (iv) are correct
- d) *Only (i), (iii) and (iv) are correct***

7. Administrative control of CBI vests with:

- a) Central Vigilance Commission
- b) *Administrative Vigilance Division***
- c) Prime Minister's Office
- d) Cabinet Secretariat

8. Which one is **not** true about the Chief Vigilance Officer of an organisation

- a) Reports directly to the Chief executive
- b) *Responsible only to the CVC***
- c) Is responsible for the conduct of proceedings after the issue of charge sheet
- d) Is responsible for taking preventive measures for tacking corruption in the organisation

9. Which one of the following is **not** true about the Vineet Narain case

- a) In this case the Supreme Court has issued instructions against the Single directive
- b) The case was filed against the lethargy of the Govt in taking action in Hawala case
- c) ***The judgement in this case led to the framing of instructions against sexual harassment of women at work place***
- d) In camera proceedings were held in this case

10. Chief Technical Examiner is a part of

- a) CBI
- b) AVD
- c) ***CVC***
- d) Ministry of Works and Housing

11. Which one of the following is true about proceedings against an erring Govt employee

- a) ***There could be either departmental proceedings or judicial proceedings in respect of a single misconduct.***
- b) Penalty can never be imposed without conducting an impartial inquiry in which reasonable opportunity is given to the delinquent to defend him/herself.
- c) If an employee is convicted in a criminal trial, he/she is deemed to be dismissed from service; but a formal order needs to be issued
- d) If a person is found guilty of a misconduct at the end of a departmental proceedings, he/she must be awarded at least a warning.

12. CVC is concerned with

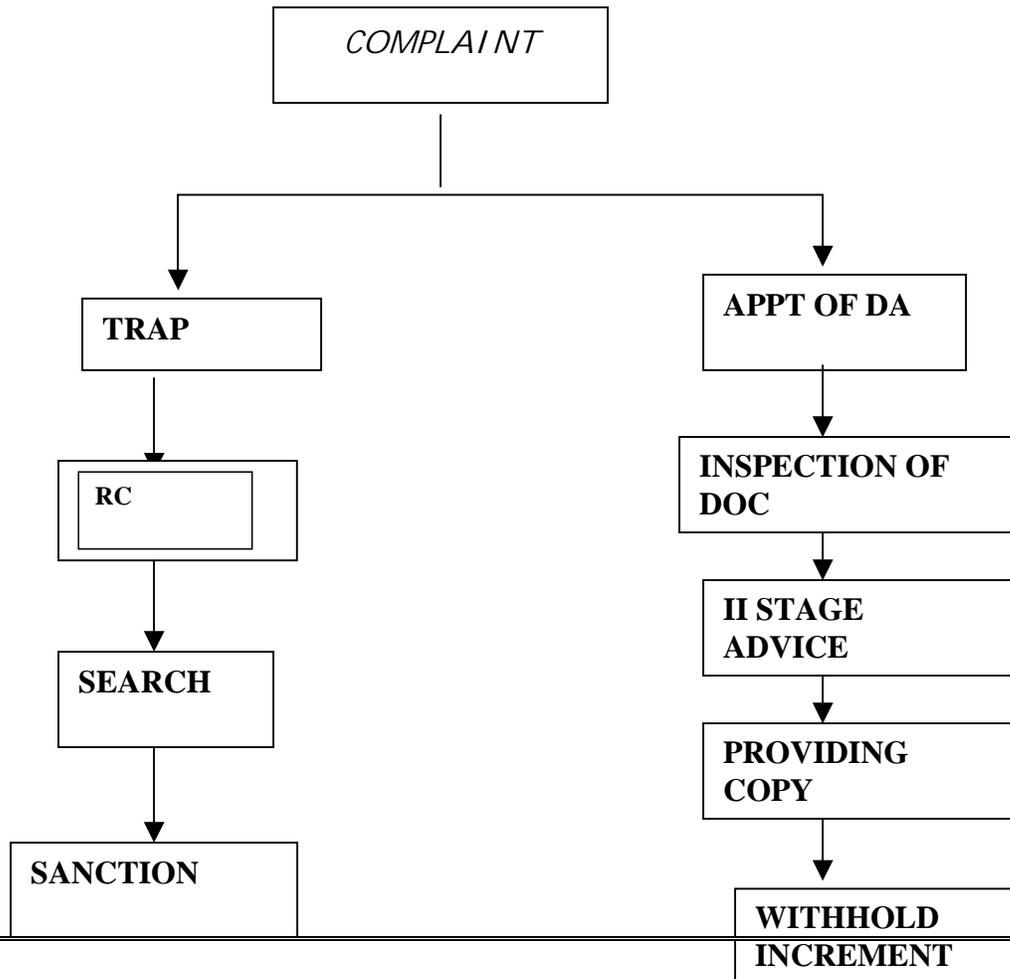
- a) The cases involving corruption in all the Central Govt. departments
- b) ***The cases involving corruption in all cases wherein Central Govt funds are involved.***
- c) In cases involving Consolidated fund of the Union or the Consolidated Fund of the State.

d) Cases involving Group A Officers of the Central Government.

## EXERCISE

Please fill up the boxes with the appropriate phrases chosen from among the following:

- a) RC
- b) Inspection of documents
- c) Withholding increment
- d) Trap
- e) Appointment of Defence Assistant
- f) Receipt of complaint
- g) Providing a copy of the inquiry report
- h) Sanction for Prosecution
- i) Second stage advice of CVC
- j) Search of premises



## **STEPS FOR COMBATING CORRUPTION.**

- **Just kick-start anti corruption movement and it will gather momentum.**
- **Be strong, refuse to pay bribes and wait for your turn.**
- **Turning a blind eye to corruption is worse than corruption itself. Therefore, if you see any wrong doing, report immediately to the authorities.**
- **As a common man have the moral courage to expose those who demand bribes.**
- **If your work is not done in a normal course go to the senior official. If they don't listen complain to the appropriate authority.**
- **When you are at the receiving end do file a complaint with the Anti Corruption Department.**
- **If you are part of the system ensure transparency by giving wide publicity to the citizens charter of your Department. If there is none do initiate action to formulate a citizens charter.**
- **Initiate action for speedy disposal of cases in courts and greater accountability in the judiciary.**
- **If an official is found guilty the legal expenses incurred to prove him guilty should be deducted from his Insurance/Provident Fund.**

- **Do ensure that Telephone Numbers and contacts addresses of Anti Corruption Bureau officials are well publicized.**
- **The identity of the complainants should be well guarded so that people are not scared to come forward. The Hon'ble Supreme Court has already directed to Govt. to enact "Whistle blower Act" to ensure protection to complainants.**
- **Media is the most powerful weapon in exposing corruption. The common man should, therefore, approach the media whenever he finds things go wrong.**
- **In sensitive and public dealing Departments, promotion of Government employees should be based on feed back from the public.**
- **As a Government official please remember that your status is not permanent. Sooner than later you will find yourself on the other side of the table. Therefore behave in a such manner that you would expect when you are no more a Government official.**
- **Just kick-start anti corruption movement and it will gather momentum.**