

# CORRUPTION

## INDIA'S ENEMY WITHIN

C P SRIVASTAVA

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C.P. SRIVASTAVA, IAS (RETD)



## *Preface*

India today is the world's largest democracy with a population of one billion and an electorate of 605 million. Since attaining Independence in 1947, the country has already successfully held 13 general elections on the basis of adult franchise and secret ballot. The Constitution of the country guarantees absolute equality to all citizens regardless of caste, creed, community or religion. The Supreme Court of India has ensured the strict enforcement of every constitutional safeguard relating to the freedom of all individuals. India has a free and vibrant press which is another strong protector of the rights of the common people. The country has made remarkable progress in other respects as well. It now has one of the world's biggest reservoirs of top-class specialist personnel such as scientists, technologists, engineers, software experts, doctors, surgeons, lawyers, administrators, leaders of business and industry, managers, accountants, etc. India has become one of the most advanced industrialized countries of the world and now manufactures almost every conceivable item, from pins and needles to highly sophisticated machinery, ships, aircraft, tanks and missiles. India has successfully accomplished a 'green revolution' in agriculture and is now self-sufficient with respect to food items. Furthermore, India has a well-established political, administrative and judicial structure. With all this, India should have by now become a well-administered and reasonably prosperous country with a place among the front rank nations of the world. And it should, in any event, have been able to eradicate abject poverty and to provide at least the basic necessities of life to all its citizens. Such, regrettably, as everyone can see, is not yet the case.

The truth is that after 53 years of Independence, India is beset with numerous critical problems of which the most alarming and lethal is pervasive corruption in the polity, in administration, in society and

in business. But corruption is not simply a moral issue; it has far-reaching and often devastating practical consequences. And the most distressing and debasing aspect of the present situation is the abysmal poverty of 500,000,000 Indians, constituting one half of the total population of the country, many of whom are still denied clean drinking water and basic sanitation. There are, in addition, several consequential and attendant evils such as criminality in politics, the exploitation of fundamentalism, casteism and pseudo-secularism. There are also the ubiquitous signs of the potentially catastrophic loss of traditional values both in family and social life, the consequential spread of hypocrisy and incivility, disrespect for the law and the exploitation of petty power, together with a steep decline of standards in all but a few of India's schools, colleges and universities.

Even the economic development of the country is severely handicapped by an inadequate, inefficient and ill-maintained infrastructure whose functioning is hampered by indescribable malpractices.

The root cause of all this debasement and degeneration is ubiquitous and massive corruption. This is the demon which has prevented India from making the same kind of all-round progress during the last half-century as has been achieved by several other developing countries of Asia and Latin America where the prevailing level of corruption has not had the same undermining and stunting effect. 'India is the world's biggest underachiever' says *The Economist* of 4 September 1999. This is a bitter truth but there is another truth which is equally valid and which provides a lot of hope for the future: no one doubts that India has the requisite human as well as material resources to bring about a dramatic change in this situation within no more than a decade or two. The only proviso is that it must give primacy to combating corruption by all necessary and appropriate legal and administrative measures. It is not just the moral stature of India which is at stake. Corruption poses a fundamental threat to the political, economic and social well-being of the country in both the near and distant future.

This book focuses mainly then on the problem of corruption and attempts to explain *why* the country is gripped by pervasive corruption. It attempts to assess the extent of damage caused already and warns of the dangers the country might face if this evil is not checked. This is the central and crucial issue, but attention has also been invited to other problems in different fields which are debilitating the country.

There is no suggestion that corruption can ever be totally eliminated. There is no country in the world which is completely free of

corruption in every aspect of its activities. Wherever there are human beings, there is corruption—ranging from the marginal to the pervasive—depending entirely upon measures taken to control and combat this phenomenon. But why does this phenomenon occur at all? Why do human beings take to corruption? Surely they know what is right and what is wrong. They have been endowed with a 'free will' to make appropriate choices in their daily lives. Why don't they always choose the right course of action?

This is a primordial question and the answer possibly lies in the understanding of primeval human nature. Human beings, like all other living beings, are born with some basic 'instincts'. The strongest of them is the instinct of 'self-preservation'. If any living being perceives any imminent danger to its life, it runs away as fast as it can or it counter-attacks if it has the strength. Such action cannot be legitimately described as 'good' or 'bad'. It is an instinctive response because of the 'given' and 'inherent' human nature. Men and women are born 'programmed' to act in their 'self-interest'.

In the early and primitive period of their existence, human beings used their physical might to preserve themselves. If necessary, they stole from their neighbours and, even killed them. None of this was regarded as evil. It was 'necessary for self-preservation'. In course of time this created a chaotic situation. To rectify it, all great religions prescribed moral codes containing norms for the behaviour of human beings in the common and equal interest of all. That was, and continues to be, the purpose of the Ten Commandments, of which:

- the Sixth Commandment said 'thou shalt not kill';
- the Eighth Commandment said 'thou shalt not steal'; and
- the Tenth Commandment said 'thou shalt not covet'.

In India, the ancient notion of the *Rta*—law built into the very structure of the cosmos—and the subsequent development of the doctrine of the *maryadas*—denoting an innate sense of right and wrong, of appropriate and civilized action—enjoined all persons to live within the bounds of ethics and morality. The purpose was to control and tame elemental human nature.

With the advent of civil society, the basic moral norms relating to life and property began to be enforced by common agreement, by the law which guaranteed 'preservation' to every member. Most people thus felt secure and settled down to a life governed by the 'rule of law'. They could freely go about their vocations. Their lives, their

families and their properties were protected by law. If any person, impelled by his primitive instincts, still engaged in stealing or killing, he was punished according to law.

Society created its own norms of behaviour for men, women and children in order to promote good order. These norms were generally based on and reinforced by religious injunctions. People began to recognize that their individual self-interest was compatible with the general self-interest of all other members of the community governed by rules and regulations equally applicable to all. Of course conditions did not become idyllic, but the people lived peacefully with the exception of a few thieves and robbers here and there who were impervious, possibly because of some deep moral defect, to the appeal of just and collective norms of law.

Then came the Industrial Revolution following the invention of the steam engine, opening up vast opportunities to nations and peoples. The inherent instinct of 'self-preservation' was boosted through the misapplication of Darwin's theory of evolution to the contemporary nineteenth century social scene. The scientific theory of 'the survival of the fittest' was used to justify the ruthless exploitation of the weak and powerless and the notion of 'self-advancement' by all available means. Thus mass exploitation became the rule, aided and abetted by the use and abuse of newly acquired power from technological advances. Traditional norms of social behaviour were largely swept away. Overpowering greed, selfishness and acquisitiveness were accepted and tolerated once again as legitimate motives of social interaction. Many people began to misuse their newly acquired power in politics, in administration or in business to secure illegitimate gain for themselves. Recall what the employees of the East India Company did in India or what the soldiers of the imperial powers did in the countries of Africa, Asia and Latin America. Even in the imperialist nations, the powerful exploited the rest. Thus set in the modern phenomenon of widespread corruption. In the eighteenth century, which marked the beginning of colonial expansionism, some of the most powerful countries in the world at that time, were also amongst the most corrupt.

But soon certain leaders and men of vision in a few countries saw the grave dangers inherent in the prevailing situation. To rectify it, they ensured the enactment of new laws to re-establish honesty and to combat corruption in all aspects of national life, especially governmental administration.

With great wisdom they did not disregard the fallibility of human nature caused by the inborn instinct of 'self-preservation'. They recognized the fact that human beings had first to be assured of their own security and well-being as well as that of their families. Once that assurance was provided in a reasonable manner through a society governed by the rule of law, they could then be subjected to a rigorous new legal regime prescribing good behaviour in the best interests of the whole society and severe punishment could be meted out to those who departed from the new, more collective and enlightened norms. And the leaders provided inspiring role models, promoting a climate of fair play and uprightness.

This new approach worked effectively and integrity in government and in the society was gradually re-established. The corrupt of the eighteenth century thus became the most honest of the nineteenth and twentieth centuries. Corruption in these countries has not disappeared, but it is marginal and easily cognizable and punishable.

India today needs the same 'new approach' as has helped other countries in the past. The option of ignoring the realities of today's situation or the option of doing nothing about it, is just not available. The demon of corruption, if unchecked, can strike anywhere at any time causing havoc and always undermining the sense of national integrity and collective purpose that is essential to the moral health and success of any nation in the world community. In August 1999, an earthquake in Turkey resulted in the loss of thousands of precious lives. The houses in which these people lived could not withstand the tremors and they collapsed like a pack of cards, killing their inmates. All these houses had been built without conformity with the official building regulations which required special strengthening of the structures. It was reported in the press that permission for the construction of all these houses had been obtained dishonestly by unscrupulous contractors who had bribed the political and bureaucratic officials concerned. It was thus not metaphorically, but in actual fact the demon of corruption and not the tremor of earthquake which had killed so many people in one short moment. No one knows where this demon will strike again.

Hence the plea in this book, that the head of the government of the country, the prime minister, personally lead a crusade against corruption aiming at the re-establishment of integrity and transparency in governmental administration throughout the country with the help of new and fair legal and administrative measures. That is the most important, urgent and basic need of India and of all its

billion people. It is only when the administration of the country has been cleansed of corruption, especially at the top political and bureaucratic level, that it will be possible to deal effectively with the most debasing problem of India—abject poverty, misery and illiteracy of nearly half of its population, that is half a billion people. Funds for poverty alleviation programmes can be found if there is reliable assurance that they would be used fully and efficiently for the benefit of the people and will not be diverted into private pockets or the coded Swiss bank accounts of corrupt political and administrative functionaries. Furthermore, in a general climate of integrity, the other debilitating ills of the society would also tend to get resolved gradually. Thus corruption is truly India's internal enemy number one which needs urgently to be challenged and defeated. Therein lies the key to the resolution of other menacing problems of the country. To those who lament: 'This is all very well but what can we do?', we can only recall the good old adage: 'It is never too late to mend.'

A lot of documentation has been included in this book so as to provide original texts of laws, codes for ministers and civil servants, etc., enacted and enforced in other countries with remarkable success. These are useful models. And models, we should remember, can always be improved upon.

The immense care which has been taken to prepare and promulgate these comprehensive statutes and codes demonstrates the determination of the countries concerned to give no chance whatsoever to the vagaries of human nature. Those who hold a public office have to perform their functions with total integrity in accordance with the law of the land, with loyalty to the constitution of the country and in conformity with general ethical principles. Those who engage in any corrupt practice in contravention of laws and codes are punished quickly and severely. This common consent, embodied effectively both in usage as well as in the law of the land, makes corruption a very hazardous and ruinous business. India needs similar measures.

The proposed task is not an impossible one, but it does need for its consummation a very determined political will at the top. Indian society has been for ages and still continues to be hierarchical and the leaders have, therefore, a very crucial and determining role to play. If they lead even now not just by precept but also by example, they will make a visible impact on the common people and gain their support for combating corruption. There is still in India a strong underlying commitment among millions of people to the age-old

concept of dharma which enjoins right conduct in all circumstances. Massive corruption which is throttling India today is an overgrowth of recent decades resulting from the unbridled abuse of political and economic power. Strong corrective and regulatory measures by the present governmental leaders to prevent that abuse and to punish the delinquents can still bring about a dramatic change in the Indian scene. What is essentially needed today is decisive action.

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belief by initiating and promoting a movement—‘Sahaja Yoga’—which now has thousands of adherents who belong to different faiths, races and nationalities and live in different parts of the world, who are now leading a life of truth and uncompromising integrity in all aspects of life. Most of those who have helped me with research work are her devoted followers. Nirmala agrees with me that the proposals in this book for administrative and legal measures to prevent and control corruption are steps in the right direction for keeping men and women in power on the right path. But she maintains that spirituality is the only true ultimate answer. That subject is, however, beyond the realm of this book.

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While so many have helped me, I take full responsibility for the contents of the book and for all comments and suggestions. My sole purpose has been to explain, objectively and truthfully, the historical context in which corruption has grown in India since Independence and, taking that into account, to suggest measures for reform and control. With a well-conceived and determined action, India can and must be turned around.

C.P. SRIVASTAVA

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## *Introduction*

Corruption is presently the most alarming malady afflicting practically all of India's 1 billion people save a small number who are very rich and can, therefore, bribe their way through or those who hold positions of power in the governance of the country and whom no one can thwart. In fact, corruption in India has assumed cancerous proportions and has become, surreptitiously, an all-devouring monster rivalling the ancient Greek vision of the nightmarish 'Hydra' who possessed 9 heads with the added attribute that if one of these heads was chopped off it would instantly be replaced by 2. Corruption is on the rampage, depriving the people of fair administration and thwarting the process of development. Public funds allocated for the welfare of the desperately poor are largely siphoned off into private pockets. Things have come to such a pass that, from India's capital city of New Delhi to the smallest village in the country, virtually no official decision or stamp of approval can be obtained unless and until the requisite bribe has been paid. The quantum of bribe depends upon the financial implications of the subject matter and the level and status of the person making the decision. It could be a few hundred rupees for a clerk, a few thousand for an inspector, a few lakhs for a senior officer and an even larger sum for a minister. The giving and taking of bribe is now commonly accepted as a way of life and a part of the well-organized and well-oiled graft machine. The poor, who cannot pay, groan and suffer and cannot further their cause. Those who have the resources shrug their shoulders, pay the bribe and get on with the job. Most of the bureaucracy, the police, the judiciary and the political hierarchy is infected by what is truly a national epidemic.

Equally disturbing is the menacing effect of corruption on the politics, the society and the economy of the country. Politics has become

dangerously criminalized. Candidates for election to the national Parliament and the state legislatures are selected by the political parties for their 'winning ability', which, in specific terms, means money power or muscle power or caste power, preferably a combination of all these attributes. Education, character, integrity and a proven record of service to the people are seldom, if ever, the determining factors.

Candidates for election have to spend large sums of money. Although the Election Commission has prescribed a ceiling of Rs 15 lakh (Rs 1.5 million, which is equivalent to about US \$ 37,500 or UK £ 20,500) for expenditure by a candidate for the Lok Sabha, the lower house of India's Parliament, in practice the amount spent by each candidate is generally believed to be much in excess. The figure in hotly contested seats may be as high as Rs 2 crore (Rs 20 million, which is equivalent to US \$ 500,000 or UK £ 300,000) per candidate. Where does all this money come from? Obviously from persons who expect to be reimbursed later in one way or another or repaid in kind. After success in the election, those who become ministers use their power of decision-making, especially in lucrative contracts, to benefit their financial supporters and, of course, themselves. Others become power brokers. This is the foundation stone of corruption in India's parliamentary democracy.

And what of Indian society? Despite foreign invasion, Indian social values, rooted in the earliest days of recorded human history, withstood for centuries the stresses and strains inherent in a changing political environment. It is for these values that India attained global renown and respect. What were these unshakeable values? Essentially there were four such values—first, a constant and persistent search for the truth and for the 'right' path in respect to all situations and all persons; second, a determination to live within the *maryadas*, that is, within the bounds of acknowledged morality and decency; third, an unfailing adherence to the concept of *Karma Yoga*, that is the performance of one's duties at all times, without fear or favour and without worrying about the fruits of one's labour; and fourth, a belief in the concept of one universal human family and sincere respect for all faiths and religions of the world. These are immutable ethical values which are the prerequisites of a truly civilized existence.

I am not suggesting that things in Indian society have always been idyllic. No, not by any means. There were serious blemishes in the common code of behaviour: the treatment of women, especially widows, the treatment accorded by members of the higher castes to those of the lower castes, etc. The point I am making is that despite

foreign rule in India for a protracted period, Indian society remained cohesive and people of all communities, consciously or unconsciously, lived a life broadly in conformity with an unwritten code of values, seeking right ends with right means. In household debates, the elders would often be heard to say: *Yeh baat theek nahin hai* (This is not right). As a rule, such an admonition was promptly heeded. Any deliberate departure from the norm sanctioned by traditional wisdom was treated as an unacceptable aberration and those whose conduct and character were exemplary (and such people were found in almost every locality), were accorded general respect and deference.

Thus it was that Mahatma Gandhi who was in complete consonance with the age-old ethos, won the hearts of the people and was able to inspire them through his moral leadership.

This was the situation when India attained Independence on 15 August 1947. While the selfless leaders of the freedom movement were still present and active in the political sphere, their example and influence held society together. But as that generation thinned out and memories of the noble ideals that had inspired the freedom movement began to fade, people in authority began, in the new environment, to seek personal gain without much regard to the means. Thus a decline in the value system set in. In the beginning of this trend, the fall was gradual, but from the late 1960s it became precipitous. During the 30 years since, there has been a disheartening, indeed alarming transformation. Today, barring honourable exceptions, every person is pursuing self-interest in an uninhibited manner by means fair or foul. The middle class which has been the bastion of age-old social values is now in a whirlpool of confusion. The weakening of the moral backbone, traditionally provided by that class, threatens dire consequences for the moral health of India and so also for its economic, social and political future.

The rising prices of household necessities and the spiralling cost of housing, children's education, medical aid, transport and entertainment are driving people to earn more money somehow, anyhow. There is no time nor room for any hesitation, any restraint or scruple, any decency, any integrity. Family ties are loosening and relationships are under pressure. Elders are no longer providing role models to their children and the quality of family upbringing as well as the level of family discipline are on the wane. One hears frequently that in the realm of international relations there are no permanent friends, only permanent interests. Traditionally, of course, permanent, selfless friendships have been the soul and basis of happy and gracious living

and secure social relations. This is no longer true, for today there is, exceptions apart, no lasting or disinterested friendship; there is only impelling self-interest. Trustworthiness is fast dwindling as an acknowledged social value. There are very few who still adhere to any standards of personal behaviour. If you are standing in a queue, you are likely to be pushed aside by some sturdier fellow. Well to do, well dressed people driving motor cars, think nothing of crossing a red light if they can get away with it regardless of the risks to the public. All this and more of the same kind happens every day in the capital of India, New Delhi.

The rule of law is a '*sine qua non*' of a well-ordered democratic society. Laws protect the legitimate rights of all citizens and the conventional assumption is that 99.9 per cent of the people would comply with all laws voluntarily and happily. The remaining 0.1 per cent of the people who may commit a breach of law can, it is confidently assumed, be dealt with by the police. However, in India, some political high-ups began acting in the belief that they were above the law. Not surprisingly, this belief has since trickled down. There is a growing and disturbing disrespect for the law. The number of 'strong arm' men and thugs is on the increase. In some areas of the country, there are armed gangs who engage from time to time in caste warfare. The police is doing its best to cope with the lawbreakers but it is not as effective as it should be. There is, however, a simple and evident explanation for this weakness at the heart of India's system of law enforcement. The police does a vital job, but it is ill-paid, ill-equipped and easily susceptible to monetary temptations.

The Indian economy has been, for many years now, the playing field of ravenous politicians, greedy businessmen and corrupt officials. In the current situation when private sector economic activity, despite liberalization, is still subject to a web of rules and regulations, giving enormous discretionary powers to government officials and ministers. And when public sector enterprises are treated in effect as subordinate government departments, again controlled and directed by the government secretariat, the opportunities for corruption are unlimited. As the ever-lengthening catalogue of scams and scandals demonstrates, these opportunities have been seized with both hands. India has been correctly described as a 'tiger in a cage'. And the cage is made of impregnable administrative inefficiency, an extremely poor infrastructure and an almost insatiable lust for personal gain.

In the last 53 years since Independence, India has developed into a major economy, but because of the handicaps of inefficiency, poor infrastructure and corruption, progress has been far less than what it

could have been. Let us see what other developing countries in Asia have achieved during the same or shorter period.

One way of measuring relative growth is to look at gross domestic product per capita, in some of the Asian countries, as quoted below:<sup>1</sup>

<i>Country</i>	<i>GDP (in US \$)</i>
China	610
India	344
Indonesia	963
Malaysia	3,889
Pakistan	440
Philippines	1,059
Singapore	23,995
South Korea	9,689
Thailand	2,741

One cannot fail to notice that despite its enormous potential, India stands at the bottom-end of this list.

What about adult literacy? The following figures show the relatively unenviable position of India in this regard as well:<sup>2</sup>

<i>Country</i>	<i>Adult Literacy (percentage)</i>
Bangladesh	37.00
China	80.00
India	50.60
Indonesia	82.90
Malaysia	80.00
Pakistan	36.40
Philippines	94.20
Singapore	92.00

India's achievements in respect of infrastructure are no less disheartening. The roads, where they exist, are generally in poor condition. A considerable proportion of the funds allocated for the maintenance and construction of roads is misappropriated by the officials of the public works departments and the loot is shared with the political bosses. India's ports have improved progressively, but they still cannot be compared with the ports of Colombo or Singapore. The shipyards in India are among the least efficient in the whole world.

The ship repairing facilities are antediluvian with the result that many Indian ships proceed to Colombo, Singapore or China for dry docking and major repairs. India's international airports have not been planned and built with foresight, vision and competence to meet efficiently the growing requirements of rapidly expanding passenger traffic. Even when a new airport is commissioned, it is already out of date. The first impression that a businessman or a tourist or a foreign official gets of India at our airports is one of relaxed, good-natured inefficiency!

Energy generation is woefully short of requirements. Per capita use of energy is another indicator of the stage of a country's economic development.<sup>3</sup>

<i>Country</i>	<i>Consumption of Energy per head (Kg coal equivalent)</i>
Bangladesh	93
China	920
India	374
Indonesia	465
Malaysia	2,291
Pakistan	332
Philippines	426
Singapore	9,674
South Korea	3,772
Thailand	1,073

The overall picture of India thus is that of a large country with enormous resources and a population of 1 billion people, struggling to move forward towards a better way of life for all its people but shackled by endemic corruption.

On 15 August 1997, India completed 50 years of freedom. Normally this would have been an occasion for great rejoicing and a fresh, enthusiastic commitment to accelerated material development with a view to providing a reasonable standard of living to all of its 1 billion people. There is indeed much to applaud. India is the world's largest democracy with 605 million voters. As many as 13 general elections based on adult franchise and secret ballot have been accomplished. India has developed a large industrial base and the country has a thriving consumer goods sector. The judiciary is independent and vibrant and so is the press.

And yet the mood of the nation on 15 August 1997 was sombre and reflective. Overshadowing all achievements was the demon of

corruption in every aspect of national life coupled with a feeling of near helplessness. Reflecting on this and the pain in his own heart, the President of the Republic, 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 civilisation 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 hall-mark of our social and political life. Violence has 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.

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 scrutinise 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.

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 whether it is a matter of government purchases, paying of taxes, paying of customs duties, some people 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 also 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 without bribing somebody, whether it is police station, 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 corrupt 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.

It is of no small measure of importance that the key issue which the two highest dignitaries of India chose to address on the solemn occasion of the Golden Jubilee of India's Independence, was the degeneration caused by widespread corruption in almost every aspect of national life.

The verdict of the press was no less candid. H.K. Dua, one of the most senior, eminent, and respected newspaper editors in the country,

recorded his comments in the following 'editorial' on the front page of the *Hindustan Times* dated 15 August 1997:

Distant Destiny  
H.K. Dua

Five decades ago and after a long struggle, this nation of ours stepped into freedom and began looking ahead with hope and some excitement about the future. Freedom did not come without the pain of partition and plenty of blood, tears and suffering. Yet those who saw freedom come had confidence in themselves and their ability to build a new India.

Jawaharlal Nehru spoke about the nation's tryst with destiny and immediately began working for a democratic, secular and united India which could play its role in the world befitting a great people. In his own way, Mahatma Gandhi fine-tuned the destiny idea and talked about building a nation which could wipe off the tears of the poorest, the loneliest and the lost of the land.

They had different views of what a free India should be like, its national aims and the question of ends and means that Gandhi was most concerned with. Whatever their viewpoints, conceptual or otherwise, Gandhi and Nehru wanted to work for an India where none died for lack of food, where everybody had shelter and some clothes to put on; where every child would go to school to learn skill and ideas for a bright future.

Gandhi, Nehru, Patel and many other leaders who came from different streams of thought and millions of people who suffered with them in the struggle for freedom shared a common dream of building a new India and a new society based on some values. Idealism was in the air; there was purpose and a sense of direction that helped the leaders and the led get over the birth pangs of freedom.

As the years have gone by, the dream has turned into a nightmare; idealism has been replaced by cynicism; and the pursuit of power has blinded politicians whose disregard for values and decency in public life is matched by greed and untamed ambition. Where service to the people should have been the chosen path, our politicians have adopted the ways of parasites who thrive by living at the cost of others. And to sustain themselves in power they have joined hands with criminals and thugs and have even opened for them the doors of political parties, state legislatures and, in some cases, of Parliament itself. It is not the quality of the debate that has simply suffered in these august

bodies but their credibility and capacity to guard the rights of the people against encroachment by an executive not known for believing in the principle of public accountability.

Only on some occasions, does it prick the conscience of our leaders that despite 50 long years, we have the largest number of illiterates in the world, that a large number of people are still dying a slow death because of what is described as lack of adequate nutrition, or medicare; many people don't have clean water to drink and even toilet facilities. Talk of a united India? The nation is divided in every village with the accident of birth still deciding the rest of the life of a child. Unmindful of the consequences, our politicians are continuing to wallow in casteism to gather some more votes. Instead of combatting religious divisions, they have chosen to indulge in the politics of vote banks.

What free India is seeing is a naked rush for power and pelf by men who do not have the time to sit back and ponder what they are doing to their country. Suffering as they are from myopia they can't see what lies five days ahead for the nation they are supposed to lead. Celebrations of 50 years are good for a little morale boosting and for imparting to children a sense of history. For two generations of adults, the escape into nostalgia should not come handy for shirking responsibility to stem the rot that has already set in. The time has come for the people who have watched growing decadence from the sidelines to think of ways to ensure that during the next few years the country finds a sense of direction and some purpose. There is no point in asking those very people to find solutions who are the cause of the problems.

At the international level, a study conducted in 1996 by Transparency International and Goettingen University of Germany about the extent of corruption in 54 countries showed India to be the 9th most corrupt country in the world. The following table gives the complete list of these countries, arranged according to the level of integrity. At the top of the integrity table, a score of '10' indicates a totally corruption-free country. As the table indicates no country gained that score. At the bottom end, a score of '0' indicates a totally dishonest country. Fortunately, there is no country of that description either. All of the 54 countries are rated in between, with New Zealand as the most honest country with a score of 9.43 and Nigeria as the most corrupt with a score of 0.69 only. This is a long list, but it is reproduced here in its entirety in order to highlight the seriousness and the urgency of the problem.

**Transparency International Corruption Preventions Index, 1996**

<i>Rank</i>	<i>Country</i>	<i>Score</i>
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
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

*(Contd.)*

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

In 1999, Transparency International carried out a survey of as many as 99 countries spread over 5 continents. On the basis of this survey, they published *The 1999 Transparency International Corruption Perceptions Index (CPI)* which is reproduced in the following Table. At the top of this table is Denmark which has the distinction of being regarded as the most honest country in the world with a perfect score of 10 out of 10. At the bottom of the table is Cameroon which is assessed as being the most corrupt of all the countries which were surveyed, with a score of only 1.5 out of 10. India stands way down in the lower half at number 73 with a miserable score of 2.9 out of 10 and is perceived as more corrupt than all developed countries and numerous developing countries of Africa, Asia and Latin America.

#### Transparency International 1999 Corruption Perceptions Index

<i>Rank</i>	<i>Country</i>	<i>1998 CPI Score</i>
1.	Denmark	10.0
2.	Finland	9.8
3.	New Zealand	9.4
	Sweden	9.4

5.	Canada	9.2
	Iceland	9.2
7.	Singapore	9.1
8.	The Netherlands	9.0
9.	Norway	8.9
	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
	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
	Spain	6.6
24.	Botswana	6.1
25.	Japan	6.0
	Slovenia	6.0
27.	Estonia	5.7
28.	Taiwan	5.6
29.	Belgium	5.3
	Namibia	5.3
31.	Hungary	5.2
32.	Costa Rica	5.1
	Malaysia	5.1
34.	South Africa	5.0
	Tunisia	5.0
36.	Greece	4.9
	Mauritius	4.9
38.	Italy	4.7
39.	Czech Republic	4.6
40.	Peru	4.5
41.	Jordan	4.4
	Uruguay	4.4
43.	Mongolia	4.3
44.	Poland	4.2

(Contd.)

45.	Brazil	4.1
	Malawi	4.1
	Morocco	4.1
	Zimbabwe	4.1
49.	El Salvador	3.9
50.	Jamaica	3.8
	Lithuania	3.8
	South Korea	3.8
53.	Slovak Republic	3.7
54.	Philippines	3.6
	Turkey	3.6
56.	Mozambique	3.5
	Zambia	3.5
58.	Belarus	3.4
	China	3.4
	Latvia	3.4
	Mexico	3.4
	Senegal	3.4
63.	Bulgaria	3.3
	Egypt	3.3
	Ghana	3.3
	Macedonia	3.3
	Romania	3.3
68.	Guatemala	3.2
	Thailand	3.2
70.	Nicaragua	3.1
71.	Argentina	3.0
72.	Colombia	2.9
	India	2.9
74.	Croatia	2.7
75.	Cote d'Ivoire	2.6
	Moldova	2.6
	Ukraine	2.6
	Venezuela	2.6
	Vietnam	2.6
80.	Armenia	2.5
	Bolivia	2.5
82.	Ecuador	2.4
	Russia	2.4
84.	Albania	2.3

	Georgia	2.3
	Kazakhstan	2.3
87.	Kyrgyz Republic	2.2
	Pakistan	2.2
	Uganda	2.2
90.	Kenya	2.0
	Paraguay	2.0
	Yugoslavia	2.0
93.	Tanzania	1.9
94.	Honduras	1.8
	Uzbekistan	1.8
96.	Azerbaijan	1.7
	Indonesia	1.7
98.	Nigeria	1.6
99.	Cameroon	1.5

*Notes:* The '1999 CPI Score' relates to perceptions of the degree of corruption as seen by business people, risk analysis, and the general public and ranges between 10 (highly clean) and 0 (highly corrupt.)<sup>4</sup>

The conclusion is now irrefutable: whichever way you look at India, with regard to that central and dominating issue—that Hydra which we referred to earlier, the Hydra of pervasive corruption—the picture is gloomy, indeed dark. Almost unbelievably—in view of India's ancient respect for right conduct, for good order and for law—the corrupt seem to have acquired a new aura of social acceptability so long as they belong to the right caste or are backed by powerful and moneyed political masters. And worse still is the fact that, despite their sufferings, the people seem to be resigned to bribery as an unjust but unavoidable fact of daily life. During the general elections held in February and March 1998, and again in September and October 1999, corruption was not a major issue or a determining factor anywhere.

Two vital and practical questions arise at this stage. They need to be asked and answered frankly and truthfully. First, was it inevitable that during the 53 years since Independence India should have got so deeply mired in corruption? The answer, in my view, is an emphatic no. Second, is it still possible for India to roll back the tide of corruption and attain that level of integrity in national life as would merit a high place in the league table of well-administered nations. My answer to this question is an equally emphatic yes but with one important proviso. The issues that will arise for examination and further action would need to be considered without hypocrisy.

It is now necessary to study the growth of corruption since Independence, to analyse the reasons for this growth and then to consider the practical measures which might be taken by both the government and the people to extricate India from the prevailing web of bribery, fraud, cheating and other similar forms of dishonesty and to restore integrity, dignity and decency to the governance of the country.

#### ENDNOTES

1. 'Pocket World in Figures', *The Economist*, 1998, pp. 24, 116, 140, 142, 172, 176, 1997.
2. Ibid., pp. 102, 116, 140, 142, 158, 172, 176, 188.
3. Ibid., pp. 102, 116, 140, 142, 158, 172, 176, 188, 194, 204.
4. *Transparency International: Annual Report, 2000*, p.13, Transparency International, Berlin.

### *Indian Administration at the Time of Independence*

On 14 August 1947, as the 3-century-old period of British rule drew to a close, Pandit Jawaharlal Nehru addressed the emotionally charged people of India through their Constituent Assembly, in words which will forever remain ingrained in the their memory:

Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. *It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity.*

Referring to the new vista before the people, he asked: *Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future?*

*And he went on to remind the nation: 'Freedom and power bring responsibility.'*

Speaking on the same occasion, that far-sighted statesman, Dr S. Radhakrishnan cautioned the nation and its leaders in prophetic language. He said:

Our opportunities are great but *let me warn you that when power outstrips ability, we will fall on evil days.* We should develop competence and ability which would help us to utilise the opportunities which are now open to us. From tomorrow morning—from midnight today—we cannot throw the blame on the Britishers. We have to

assume the responsibility ourselves for what we do. A free India will be judged by the way in which it will serve the interests of the common man in the matter of food, clothing, shelter and the social services. *Unless we destroy corruption in high places, root out every trace of nepotism, love of power, profiteering and black-marketing which have spoiled the good name of this great country in recent times, we will not be able to raise the standards of efficiency in administration as well as in the production and distribution of the necessary goods of life.*

By referring in 1947 to the danger of power outstripping ability, Dr Radhakrishnan was in effect pointing to what the President of the World Bank, Dr James D. Wolfensohn, diagnosed 50 years later in the *World Development Report 1997*, as one of the principal reasons for the abysmal corruption now prevailing in many developing countries—failure to match the State's assumed role to its capability on the ground.

Have the people of India lived up to Pandit Nehru's expectations? Or, more importantly, did he and his successors live up to the responsibility which freedom and power had brought to them? Did they live up to the trust of the people? Did the new rulers of the country heed the warning so clearly and pointedly administered by Dr Radhakrishnan about the danger of power (or assumed responsibilities) outstripping the capability of the State? These questions provide the theme of this book and the answers will come after a brief survey of the manner in which the power of governance transferred to India from the United Kingdom in 1947 has been used or abused by its rulers during the last half century, with reference to the vital issue of integrity and corruption in administration.

### The Administrative Set-up in 1947

In the years immediately preceding the transfer of power on 15 August 1947, India had an effective, adequate and efficient administrative machinery for carrying out the main purposes of the State, namely, maintenance of law and order, collection of land revenue and other taxes, preservation of the status quo and protection of the interests of the then ruling power. For general administration, a well-defined line of command and control had been established with the village *patwari* at the bottom and the Viceroy at the top and clearly defined levels of authority in between. Several crisply drafted 'manuals' had been promulgated defining procedures to be followed and action to be taken in different types of matters and situations. The object was

to obviate the possibility of erratic decisions or abuse of authority for private gain. A comprehensive legislative framework in the shape of acts, codes of procedure, etc., for criminal and civil matters had been established with a judicial system to ensure what is commonly known as the 'Rule of Law'.

One of the best things the British did for India was to establish the Indian Civil Service (ICS) strictly on the principle of meritocracy. Members of this cadre, both British and Indian, occupied all top level administrative positions in the provincial governments and also in the central government. They all received high salaries and were allotted appropriate, indeed imposing, residences. They had a decent standard of living and gained high social esteem. Members of the ICS built up for themselves an unassailable reputation for ability, efficiency, independence, impartiality and integrity. This service became the 'steel frame' of Indian administration.

Overall, for the limited purposes of the British rulers, the administrative and the judicial apparatus of the country was well ordered.

Let me now revert to the question of corruption. No country in the world has ever been totally free of corruption in all respects and nor was India at that time. There was undoubtedly considerable corruption in India then, but it was limited to the bottom rungs of the bureaucratic ladder and, more importantly, it was not pernicious or extortionate in its impact on the people. The following provides a brief description of the types and extent of corruption prevalent in India during the years preceding the commencement of World War II in 1939:

1. A system of payment of small sums of money to persons holding posts in the lower levels of the bureaucracy had developed over the years and had assumed the status of a well-understood and accepted custom. Together with an application, submitted to a minor official for a decision, a sum of money, say Rs 2, would be discreetly passed on voluntarily with a grin and wink. At the end of the day, the total receipts would be shared in an agreed proportion by all the lower officials in a particular office. This customary, though illegitimate, payment to subordinate officials was described as *nazrana* and those receiving it called it their *oopar ki amdani*—income in addition to the legitimate salary which was usually low and inadequate to meet the essential needs of their families.

The *chaprasis* and orderlies of the *bara sa'abs* used to be given a rupee by the visitors as *bakhshesh*. A respectful bow by the *chaprasi*

at the time of the visitor's departure would be an indication that this little transaction had been completed without anyone else noticing it.

2. Higher officials such as deputy collectors or collectors as well as deputy superintendents and superintendents of police would accept without demur substantial hampers full of 'good cheer' at the time of Christmas and New Year. These hampers came usually from the landed gentry.

Furthermore, when these officials undertook tours of the rural areas, their camp 'kitchens' were usually taken care of by lower officials with the help of the local well-to-do people.

3. Top officials such as commissioners of divisions, governors of provinces and even the Viceroys and Governors General who were more often than not British, would undertake a tour of their respective jurisdictions at the time of retirement and accept substantial gifts for themselves and expensive jewellery for their ladies.

Having described the scene, I must add that barring minor exceptions, these payments or presents were never demanded or extorted. They were made voluntarily and in good humour. The customary payments to minor officials were not described as *rishwat* or a bribe. No social stigma was attached to the recipients of these payments which were treated as necessary supplementary payments to low-paid officials. There were, however, some complaints about subordinate inspectors of police demanding a substantial bribe or, *rishwat* from persons involved in criminal cases in return for report that absolved them of any wrong doing. Occasional complaints were made against officers of other departments also, especially those dealing with public works. All such cases usually came to the notice of higher officers soon enough and corrective action followed quickly.

It would be fair to conclude from this description of the state of affairs at that time that apart from the petty corruption described earlier, the people were not harassed even by the lowest level of bureaucracy with demands for extortionate bribes. At the middle and higher levels, both the executive and the judicial branches of the Indian administrative machinery were remarkably free from corruption for several reasons. First, the salaries paid to officials holding such positions were decent and the recipients were able to comfortably provide for all family expenses such as housing, food, clothing, transport, children's education, medical expenses, care of the elderly, etc., and still be left with a considerable residue as savings for any

emergency. Thus they were never in need. Second, these officials were accorded great respect and consideration in society and they voluntarily conformed to an unofficial code of honourable behaviour. Third, the collector of the district, usually an officer of the ICS, maintained close vigilance and woe betide the odd man who strayed. Fourth, as the governmental machinery was not directly concerned at that time with any commercial or industrial activity, no opportunities were available for mischief.

The Indian administrative machinery was functioning in this humdrum manner when a development of great importance took place. In 1937, elections to the provincial assemblies were held in accordance with the provisions of the Government of India Act of 1935. The Indian National Congress participated in these elections, won handsomely in many areas and formed the government in 6 provinces. This was the first time that Congress chief ministers and ministers had assumed the power of governance. Soon after they began to function, complaints of corruption against numerous ministers and even against legislators began to be voiced openly. Apparently, in exercising their newly acquired power, quite a few had fallen at the first post. It was distressing that this had happened while the Congress Party was functioning under the moral leadership of Mahatma Gandhi. *Understandably the Mahatma was perturbed and he wrote: 'I would go to the length of giving the whole Congress a decent burial rather than put up with the corruption that is rampant.'*

*Pandit Jawaharlal Nehru was equally forthright in his denunciation. In April 1938, when the Congress ministers had been in office for barely one year, he had reached the conclusion that they were functioning ineffectively. '... what is worse', he said, 'is that we are sinking to the level of ordinary politicians who have no principles to stand by and whose work is governed by day-to-day opportunism.' Quite obviously Nehru did not have much of an opinion about, what he called, 'ordinary politicians'. And in the largeness of his heart, he seems to have entertained the illusory belief that Congress Party politicians were wedded to principles and that in respect of integrity, they were a cut above the rest of their ilk.*

The Congress ministers resigned in 1939 and this sordid chapter came to an early close but not before demonstrating clearly that even members of the Congress Party, even while wearing the Gandhi cap—a symbol of sacrifice and purity, were highly susceptible to the corrupting effect of power.

The en masse resignation of all Congress ministers in 1939 came in the wake of the outbreak of World War II. Great Britain, the leading power in the world at that time, took on the Nazis and the

Fascists in a fierce do-or-die armed struggle. India, as a part of the British Empire found itself at war. Since India had been dragged into the war without any prior consultation with the leaders of the country, the Congress Party quit the provincial governments in protest. The British Governors promptly accepted the resignations and assumed full responsibility for administration. Necessary emergency arrangements were soon in place, giving overriding priority to the requirements of the war.

Large supplies of various materials were required for the armed forces. Considerable construction activity had also to be undertaken at numerous locations. The entire administrative machinery was geared up for speedy action. There was to be no finicky adherence to all the applicable rules and procedures. Ends were far more important during this emergency than the means. A lot of discretion with regard to purchase prices and terms of contract came to be vested in procurement officers. Those involved in supplying, purchasing or construction did not resist the temptations of lucre. The result was an 'open season' for both bribe givers and bribe takers. Essential commodities in short supply, were procured for the war effort and were later, at least in part, sold clandestinely at much higher prices for personal gain. This was corruption in the truest sense of the term. As a result of widespread bribery, black marketing and profiteering, a large number of contractors and middlemen as well numerous supply officers and builders became very rich.

The war ended in 1945 and with that the scene changed again. Procurement drives and new constructions were soon stopped and opportunities for massive corruption disappeared. The tide of corruption then ebbed away. But from the disturbing experience of the war years, a grave lesson had to be learnt and an important conclusion had to be drawn. The lesson was simple: given the opportunity, Indians were as prone to succumbing to the temptation of money, throwing all scruples to the winds, as were people in other parts of the world. And the conclusion had to be that economic power, involving possibilities of corruption, vested in the State—the euphemistic name for the concerned government officials and non-officials—was very likely to be abused for illegitimate personal gain even in India, despite the proclaimed adherence to 'dharma'—the righteous path in all circumstances. A concomitant conclusion had to be that to obviate this probability, a well-designed system of vigilance and speedy punishment of the corrupt was essentially required if corruption was to be kept in check and the desired level of integrity was to be maintained in administration.

As we have noted already, both Mahatma Gandhi and Dr S. Radhakrishnan had administered the clearest possible warning about the menace of corruption on the eve of Independence. And it would be appropriate to recall here several other admonitions of the same kind, delivered in strong and unambiguous language. Several hundred years ago, the most famous administrator in Indian history, the sage Kautilya, wrote the following in his world-renowned treatise, *The Arthashastra*, about the corruptibility of government officials:<sup>2</sup>

### I

Just as it is impossible not to taste honey or poison that one may find at the tip of one's tongue, so it is impossible for one dealing with government funds not to taste, at least a little bit, of the King's wealth.

### II

Just as it is impossible to know when a fish moving in water is drinking it, so it is impossible to find out when government servants in charge of undertakings misappropriate money.

### III

Those officials who do not eat up the King's wealth but increase it in just ways and are loyally devoted to him shall be made permanent in service.

### IV

He who causes loss of revenue eats the King's wealth, [but] he who produces double the [anticipated] revenue eats up the country and he who spends all the revenue [without bringing any profit] eats up the labour of workmen.

### V

It is possible to know even the path of birds flying in the sky but not the ways of government servants who hide their [dishonest] income.

### VI

The King shall forgive a trifling offence and be content even if the [net] revenue is small. He shall honour with rewards [those] officials who bring great benefit [to the state].

Those officials who have amassed money (wrongfully) shall be made to pay it back; they shall [then] be transferred to other jobs where they will not be tempted to misappropriate and be made to disgorge again what they had eaten.

With supreme wisdom and detachment, Kautilya had invited attention, *inter alia*, to the following 5 general principles which, given the state of human nature, are essential for running an efficient, honest and disciplined civil service:

1. It must be assumed that, unless controlled, civil servants will make money in unauthorized or fraudulent ways.
2. Good civil servants should be suitably remunerated and rewarded.
3. Civil servants should be enjoined to collect the right amount of revenue, neither more nor less, and to control expenditure in order to leave a net balance to the State.
4. In order to ensure integrity in administration, government servants should be under constant vigilance and, as necessary, a secret service should be organized for this purpose.
5. Dishonest officials should be promptly punished and should be made to pass on to the State any ill-gotten money. Specific punishments for different kinds of misdemeanour were prescribed in a different section of *The Arthashastra*.

On the subject of the corruptibility of those holding and exercising power I wish to invite attention also to the following aphorism coined by the great British historian, Lord Acton, contained in a letter written by him to Bishop Mandell Creighton on 3 April 1887.

*Power tends to corrupt and absolute power corrupts absolutely.<sup>3</sup>*

This is a maxim of everlasting validity and is a warning to all peoples, nations and governments. Lord Acton did not say that 'power corrupts' because that would have had an unacceptable implication, namely that those who exercise power get corrupted inevitably, unavoidably and automatically. If such were the case, there would be no honest State at all. State implies an organization with numerous centres of power manned by politicians and civil servants exercising that power. If *all* of them were destined to be corrupted by power, integrity in administration would become an impossibility and civilization would cease to exist. Lord Acton was most careful and precise when he said power *tends* to corrupt. Beware of the *tendency* of power to corrupt, he said, clearly implying that suitable and effective preventive action in respect of persons exercising power, could curb that

tendency and even eliminate it. And to me, preventive action implies 2 specific measures: first, decent remuneration to keep such people well above want, and second, to institute an effective system of control and vigilance coupled with speedy and exemplary punishment to those found guilty of corruption after due process of law. Any State, any government that ignores Lord Acton's warning about the corrupting tendency of power and does not take effective and timely preventive steps, literally throws the gates open for widespread and devastating corruption.

All these admonitions—those of Mahatma Gandhi, Dr Radhakrishnan, Kautilya and Lord Acton and undoubtedly those of many other seers and thinkers of different lands were available or should have been available to the new rulers of India who were hailing the dawn of freedom and were going to assume the power to govern the country. Did these new rulers of India heed the warnings? Did they take preventive steps to curb and eliminate the corrupting tendency of the new power of governance? We shall see.

#### ENDNOTES

1. D.G. Tendulkar, *Mahatma*, 2nd edn., Vitthalbhai K. Jhaveri and D.G. Tendulkar, Bombay, Vol. V, 1996, pp. 94, 339.
2. L.N. Rangarajan (Ed.), *Kautilya—The Arthashastra*, Penguin Books India (P) Ltd., New Delhi, 1992, pp. 281, 293.
3. *The Oxford Dictionary of Quotations*, 3rd edn., Oxford University Press, New York, 1987, p. 1.

## **CHAPTER 2**

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### *Jawaharlal Nehru—Founding Father of the New Indian State*

Just as Mahatma Gandhi was the Father of the newly independent Indian nation, so too was Pandit Jawaharlal Nehru the Founding Father of the newly established Indian State. Nehru's authority was doubly complete. First, it had been bestowed upon him by Gandhi under whose moral leadership India had won Independence. Second, it had been vested in him by the people of India who had reposed in him their trust and love in full measure.

On the first day of their Independence, 15 August 1947, the people of India made a tryst with destiny with Jawaharlal Nehru as the head of the new government of the country. Silently, through their eyes, they told Nehru:

For centuries we have suffered oppression and abysmal poverty. Now comes the time for you to deliver us from hunger, ignorance, illiteracy, disease and wretched existence. Enable us within a reasonable span of time to have two square meals a day, to get clean drinking water, shelter over our heads, a few yards of cloth to cover our bodies adequately, basic education, elementary medical aid—just the bare necessities of life. You have all the power to be able to do so. Enact any law, establish any machinery for efficient and honest governance, appoint persons of your choice to positions of responsibility and pursue policies you deem appropriate. We know and believe, Panditji, that you will keep us, the common people of India, in the forefront of your agenda. On our part we will give you unconditional support for ever and ever.

Pandit Jawaharlal Nehru threw himself heart and soul into, what he called, the mighty adventure of building a new India. He was the prime minister of the country, the president of the ruling party—the Indian National Congress—and the beloved of the masses.

The three most important men in the country at this time were Mahatma Gandhi, Pandit Jawaharlal Nehru and Sardar Vallabhbhai Patel. Gandhiji was assassinated on 30 January 1948 and Sardar Patel died in December 1950. Thereafter Nehru had a virtual carte blanche to govern the country. His wish became the policy of the country, his will the law of the land.

As the Founding Father of the new Indian State, Nehru had a mighty responsibility and a never-to-be-repeated opportunity. He had to lay the foundations of a new India, he had to commence the construction of a sound superstructure and he had to create a new edifice for the good governance of the country in the interest of the people.

At such a uniquely critical juncture of India's history, Nehru's fundamental beliefs, his priorities, his personal qualities, his character and the extent of his determination and commitment to ensuring efficiency, transparency and integrity in government were to determine the quality and durability of the governing institutions of the country and moral fibre of the people—so vital for the sustenance of a genuinely free polity and a caring society.

Fifty-three years on, India is now the world's largest democracy based on adult franchise and secret ballot. India has successfully conducted, during this period, 13 General Elections. And the total electorate today exceeds a staggering 605 million. India now has a well-established parliamentary secular democracy, an independent judiciary with a highly regarded Supreme Court at its apex and an independent, vibrant press. The credit for this unparalleled achievement must go primarily to India's Founding Father, Jawaharlal Nehru, who nurtured every democratic institution, tradition and principle with full heart, zest and passion during his long tenure as prime minister from 1947 to 1964. In 1947, India did not count as an industrialized country. Today, India stands in the front ranks. This undoubtedly is the result of Nehru's vision. If India is today a nuclear power, it is because of tremendous personal support which Nehru gave to the development of science and technology in the country. All this constitutes a unique success story in the developing world.

When, however, one turns to the actual governance of India, the story regrettably takes a different turn. As the prime minister of India, Nehru held unquestioned sway over the country for a period of 17 years—an opportunity given to very few founding heads of democratic governments. This was, by any yardstick, a long enough period to enable Nehru and his ministers to ensure the firm establishment

throughout the country of an efficient, transparent and clean executive and judicial administrative apparatus so vital for the protection of the rights of the common people and for the successful implementation of programmes aimed at poverty alleviation and economic development.

Despite that, India is today one of the most corrupt countries of the world with pervasive dishonesty in every aspect of administration down to village level.

Let us examine what went wrong and why. Nehru had the vision of a highly industrialized India, planned centrally on the socialist model, with commanding heights of the economy in the hands of the State and with the private sector playing a significant yet subsidiary role regulated by governmental control. The idealist in Nehru took it for granted that the mighty economic power thus entrusted to the State, which in effect meant the new ruling political class and the top bureaucracy, would be exercised with integrity and transparency in the interest of all the people of India. The 'free enterprise' or capitalist model was rejected on several grounds but principally two: first, it was felt that such a model would create only pockets of wealth and serve the interest of a few and not the many; and second, it was felt that the private sector would just not be able to raise the vast amounts of capital required for the rapid industrialization of the country. *Prima facie*, the reasons adduced in favour of socialism and against free enterprise were cogent. For the political class, the prospects were highly delectable. In the socialist model, vast sums of money would be invested in the economy, many new enterprises would be established, a vast number of 'centres of power' would be created to grant sanctions, to regulate and to manage, myriad new jobs would be created in government departments or in public sector enterprises to which 'suitable' persons could be appointed—all of this alluring prospect under the control of the peoples' elected representatives, the new political bosses.

Nehru himself was a person of complete probity and of noble disposition. He could not even entertain the thought that numerous politicians of his own political party who had been in the thick of the battle for freedom and who had sacrificed a great deal in the service of the country, would, after assuming power, become easy prey to temptations which the exercise of power provided. And the top-level bureaucracy of the country—the Indian Civil Service, which was to join the politicians in manning the most important of the new centres of power, was justifiably taken to be entirely beyond the reach of any enticement.

But Kautilya, we should recall, had specifically warned in his *The Arthashastra* that persons exercising governmental power would in all probability have a tendency to get corrupted and that it was incumbent upon the supreme ruler to pay decent emoluments to his employees to keep them above want but at the same time take firm preventive measures by instituting a system of constant vigilance and of swift punishment to errant officials. In other words, a wise ruler had necessarily to act on the presumption of the corruptibility of his officials rather than on their unwavering adherence to probity and to take steps to counter it by appropriate measures. In India, the experience of the World War II years had clearly established the truth of what Kautilya and Lord Acton had said. Numerous businessmen, suppliers, contractors, builders and officials had indulged in corrupt practices to enrich themselves in the process of providing essential supplies, constructing new buildings, etc., in support of the war effort. Mahatma Gandhi himself had expressed deep anguish at the easy corruptibility of Congressmen. At the moment of Independence, Dr Radhakrishnan had spoken unequivocally about the danger of spreading corruption. These were not mere moralistic or academic warnings about a conjured up prowler. They were expressions of a deeply felt anguish concerning a dreadful reality.

Clearly then it was the prime duty and responsibility of the new Government of India to heed these warnings and to give the highest priority to the most important need of the people—a good and clean administration. And this needed to be done not merely at the inception of the new State, but for ever thereafter, and not just by verbal declaration of intent but by the establishment of fully-empowered statutory institutions to maintain continuous vigilance and to visit the corrupt swiftly with deterrent punishment. Attention from the top would have ensured effective functioning of this statutory mechanism from the beginning and would have established, over the years, an unassailable tradition of integrity. What the leaders needed to recognize was that, for the many millions of Indian people, efficiency and integrity in government which could assure them of the basic necessities of life were far more important and demanded a far higher priority than the establishment of a Planning Commission to prepare 5 year plans on a socialist model for economic development or the enunciation and pursuit of a new foreign policy based on the principle of non-alignment. For without an efficient, honest and strong administration, no plans for economic development could be successfully implemented and a country, which is mired in corruption

and has hungry and illiterate masses at home can hardly command much respect abroad.

*The recognition of the essentiality of efficient and honest administration from the very commencement of the new era in India was by no means or manner esoteric. All people of all countries need good government*, said Lee Kuan Yew, the miracle Founding Prime Minister of Singapore in a keynote address at the Asahi Forum on 20 November 1992, in Tokyo. In the same address he went on to list the following as the appropriate 'values' or objectives of what he called honest, effective and efficient government:

- (a) *People are well cared for—their food, housing, employment and health.*
- (b) *There is order and justice under the rule of law, and not the capricious arbitrariness of individual rulers. There is no discrimination between peoples, regardless of race, language, and religion. No great extremes of wealth.*
- (c) *As much personal freedom as possible but without infringing on the freedom of others.*
- (d) *Growth in the economy and progress in society.*
- (e) *Good and ever improving education.*
- (f) *High moral standards of rulers and of the people.*
- (g) *Good physical infrastructure, facilities for recreation, music, culture and the arts; spiritual and religious freedoms, and a full intellectual life.<sup>1</sup>*

*According to Lee Kuan Yew, very few of the democratically elected governments in the Third World uphold these values. 'But', he says, 'it is what their people want'. By pursuing these values steadfastly and firmly, Lee Kuan Yew transformed Singapore from a seedy colonial outpost into a highly efficient, honest and economically advanced country, albeit a relatively small one in terms of area and population. What, however, we are looking at here are the fundamental ideas which assure to the people of any country, small or large, an efficient and honest administration, dedicated to the promotion of their welfare. From that point of view, Lee Kuan Yew's 'values' could well be regarded as constituting a flawless charter for good government in any developing country, emerging from the colonial past and endeavouring as an independent State to promote the welfare of all its people.*

Clearly then 'good government' must be the primary objective of all developing countries, which adopt the democratic way of political governance. In India, the framers of the new Constitution provided for full democracy based on universal adult franchise and secret ballot. That was an act of faith, of courage, of idealism. An essential ingredient of such a polity should have been free education for all up to a prescribed minimum level to eradicate the prevailing illiteracy among the vast majority of people, within a reasonable time-frame. If

such an educational policy had been adopted and implemented, it would have resulted in genuine and stable democracy. An electorate, which is illiterate and ignorant, becomes easy prey to unscrupulous thugs who use money power, muscle power and caste power to subvert democracy. Criminals and looters and their nominees get elected and they participate in the framing of policies and laws for the governance of the country! That makes a farce of democracy. And if there is horrendous corruption in the political sector of India, if caste and black money have become the determining factors, if merit and integrity count for nothing and politicians facing charges of heinous crime and/or of fraud involving huge sums of public money are going about merrily as 'leaders' who get elected to Parliament or to state legislatures and who can make or mar the fate of government today, it is primarily because they are able to manipulate the electorate, a substantial proportion of which is still illiterate. As a result of the lack of moral articulateness that derives from an inadequate system of mass education, the demon of corruption has clawed a firm and frightening grip over the political system in India today.

After the preceding digression, we should now get back to the story of the growth of corruption in India. On 15 August 1947, Jawaharlal Nehru and his team of ministers became the political rulers of India with final authority in their hands. At this time all of India was under the firm administrative control of the members of the Indian Civil Service (ICS). Its British members had gone back to their parent country and of the remaining, all of whom were Indians, a few had opted to migrate to Pakistan. Those who continued in service in India were a sizeable number and entirely adequate for their current responsibilities. In the Central Secretariat, the cabinet secretary, all secretaries to government in various ministries and indeed right down to the level of deputy secretaries, barring exceptions, were all members of the ICS. In the provinces, as they were called then, the posts of all chief secretaries and nearly all secretaries to the provincial governments were held by members of the ICS. They were, as a class, persons of the highest ability and unimpeachable integrity. I had the opportunity and privilege of knowing and working with many of them and I remember them with profound respect and admiration not only for their outstanding abilities but also for their positive and helpful attitude to work. During my official career lasting over 40 years, especially during the period of 16 years when I worked in London as Secretary General of the International Maritime Organization of the United Nations, I had the opportunity of interacting with the bureaucracies of many countries, both developed and developing, and I

can say in all honesty that from every relevant point of view, members of the ICS were comparable to the very best bureaucrats anywhere in the world. It is these Indian civil servants who constituted the renowned 'steel frame' of Indian administration and the steel in them was of 'high tensile' quality. Prior to Independence, Pandit Nehru had characterized the ICS as being neither 'Indian' nor 'civil' and not even a 'service'. Well, that stigma was not true anymore. Those who were in position on 15 August 1947 were all Indians. They were certainly very civil and they were able, ready and anxious to serve their country.

The entire machinery of executive, police and judicial administration was in fine shape. It had the reputation of being efficient, reliable and, save rare exceptions, honest. It was also adequate for the job on hand—maintenance of law and order, preservation of status quo in the prevailing feudalistic society and the dispensation of justice. The key decision makers were limited in number. They were men of the highest probity and were able to ensure the requisite level of efficiency and honesty among their subordinates. India had also inherited an excellent system of education in the urban areas with several highly regarded universities at the apex, and an efficient system of railways and reliable postal and telegraph services, linking and serving all the regions of the country. All of this provided an extremely solid foundation for building up a new superstructure of Indian administration for the challenging task of the economic development of the new India.

It was for the new rulers of India to look at the existing bureaucracy carefully in order to assess its capacity as well as capability to handle the huge new responsibilities of a development-oriented, socialist economy in which the State would play an active and day-to-day role through its administrative machinery. Clearly in terms of numbers, the existing machinery was inadequate and, therefore, in need of considerable strengthening. More importantly, the structure, the hierarchy, the training, the methods of work and the motivation of civil servants needed to be examined in depth. The old system of administration was beset with red tape as well as with 'checks and balances' primarily to serve the interests of colonial masters. In the new welfare society, there would be need for accelerated decision-making, subject always to adequate accountability.

There was also the crucially important question of the management of new industrial and commercial public sector enterprises which were being envisaged, an area in which the existing civil servants had no experience or expertise whatsoever. The managers of these newly

planned government projects would need to work in the field as well as plan and establish new entities. They would have to be capable of taking bold initiatives, quick decisions and well-calculated risks. The culture of these enterprises would have to be different from those of government secretariats. Some key questions were implicit in the task before India at that moment: would the country embarking upon a centrally planned socialist economy with its commanding heights in the hands of the State need a new management service trained in the methods of business and industry? What should be the new salary structure of various categories of government and public sector employees in the future? What should be the standing mechanism for a periodic, possibly annual, review of salaries in order to prevent the erosion of purchasing power and thus to keep the employee away from dishonest practices? What should be the legal and administrative structure for vigilance and the speedy punishment of the corrupt?

All of these issues needed to be examined meticulously. This was, however, not done in any sustained or systematic manner with the result that in the course of time, the bureaucracy of the country, still steeped in the old methods, became a drag on development. Moreover, the erosion of the purchasing power of salaries over the years, because of inadequate periodic increases, created an unnoticed inlet for corruption.

Fortunately, government officials were already subject to a strict code of conduct which had been evolved over a long period by the government of that time. To obviate the possibility of corrupt practices, rules or instructions had been issued from time to time, as shown below, to cover different aspects of conduct:

1. entering into any pecuniary arrangement for resignation by one of them of any office under government for the benefit of others (1863);
2. lending and borrowing by gazetted officers (1890) and by non-gazetted (1869);
3. accepting gifts (1876);
4. buying and selling houses and other valuable property (1881);
5. making investments other than those in immovable property and speculating (1885);
6. promoting and managing companies engaging in private trade and employment (1885);
7. raising subscription by public servants (1885);
8. being habitually indebted or insolvent (1885); and
9. accepting commercial employment after retirement (1920).<sup>2</sup>

All these wide-ranging and well-conceived rules and instructions had been consolidated, improved and incorporated into a code of conduct for civil servants.

The passing of the Prevention of Corruption Act in 1947 further strengthened the anti-corruption mechanism with respect to government officials. Other measures taken by the new government included the establishment of an administrative vigilance division in the Home Ministry, the appointment of vigilance officers in all ministries and departments and the strengthening of the Delhi Special Police Establishment, whose purpose was to investigate complaints of corruption on the part of civil servants and to secure the punishment of those found guilty. Thus with respect to government officials, the basic machinery for ensuring integrity was in place. It was now necessary to ensure its effective functioning without any harassment of honest employees.

So far, so good, but the main problem at this time was the easy corruptibility of politicians. The experience of the functioning of popular ministries in the provinces just prior to the outbreak of World War II had clearly demonstrated that politicians just could not resist temptation. With vast political and economic power, which would soon come to them under the socialist model of economic development, the legislators and ministers were likely to get seriously infected by the corruption bug. It is this prospect which had perturbed Mahatma Gandhi who had given a public warning in the most forthright language.

What had so profoundly perturbed Mahatma Gandhi in his painful and courageous perception of the insidious nature of the scourge of corruption, should have perturbed the new rulers even more, for they had at this time a clear responsibility for the developing situation as the promoters of an economy largely owned and controlled by the State. With the rapid expansion of economic activities and of increased amounts of money in circulation, there would be innumerable opportunities for corruption and it should have been abundantly clear even at that time that if preventive measures in respect of politicians also were not instituted at the inception of the scenario, the demon of corruption would raise its head and eventually get out of control.

Unbelievable though it may now seem, the new government did not heed Gandhi's warning and took no steps whatsoever to establish a machinery for the prevention of corruption on the part of politicians. A committee of eminent jurists or judges could have been

appointed to examine this matter and to make suitable recommendations or the permanent civil servants could have been directed to formulate some proposals for the government's consideration. No such steps were taken.

Nor did the Gandhian principles of truth and morality in politics as well as in other aspects of public life find a noticeable place among the governing ideas of the new era. The sheet anchor for national regeneration and communal harmony in the post-Gandhi scenario was 'secularism', but the truth is that the manner in which this concept was preached and practiced, did nothing to combat or even to discourage the spread of corruption among the political class.

As enshrined in the Constitution of the Republic of India, secularism had 3 specific components: first, that there would be no official religion in India; second, that religion was a private matter for each individual; and third; that there should be no discrimination against any citizen on grounds, *inter alia*, of religion. All this was entirely appropriate and indeed the only way of civilized existence in a multi-religion society. Nehru rightly urged the majority community in the country, the Hindus, to shun communalism (*i.e.* antagonism on grounds of religion) and to create conditions in which the minorities, especially the Muslims, would gradually gain confidence that they were being accepted as equal partners in the building up of a new India.<sup>3</sup>

The prime need of the time was to eliminate the divisive poison of communalism from both Hindus and Muslims and to replace it by the uniting nectar of universal ethical values, which essentially and fundamentally were the same for both communities alike. What dharma or righteousness was to Hindus, *deen* or moral conduct was to Muslims. Thus 'ethical secularism' could well have provided a common platform for Hindus and Muslims, and indeed for all other communities. The problem clearly was that without a uniting and coalescing ethical component, secularism tended to create a dispersed and amoral society as well as an amoral polity, adrift without an anchor, without any generally accepted or acknowledged moral or social or political code of conduct for anybody.

In such a situation, it did not take long for a major scandal to erupt: this involved allegations of corruption against a high profile dignitary, V.K. Krishna Menon, then India's High Commissioner in London. In the wake of Indo-Pakistani hostilities in Kashmir in 1947, the Indian Army urgently needed 4,000 jeeps for deployment in that area. Some of these were obtained from the United States of America. For the rest, the Indian High Commissioner in London was requested

to seek the help of the British War Office for a possible supplier. Soon an order was placed by the Indian High Commissioner with a relatively unknown firm for the supply of 2,000 second-hand reconditioned jeeps together with spare parts for 3 years. The contract provided that the supply of jeeps should commence within 6 weeks of the date of signing and would be completed within 5 months.

What happened thereafter is narrated in the following extract from S.S. Gill's book, *The Pathology of Corruption*:<sup>4</sup>

A note should be made of two aspects of this deal. First, the supplier reneged on practically all his major obligations. Two, his difficulties were accommodated to an abnormal extent. Krishna Menon did not get the contract examined by his financial and legal advisers. It was not in the standard form and contained no provision for security deposit, penalty or liquidated damages. The shipment of jeeps was to start in August and completed by December 1948. In March 1949, two months after the declaration of cease-fire in Kashmir, only 155 of the reconditioned vehicles landed in Madras. Even this small batch was declared as unserviceable by the army. After this delivery there was no further supply.

According to the contract, sixty-five per cent of the total payment was to be made after the receipt of inspection certificate for the reconditioned jeeps. But this amount was paid within one month of signing the contract and before any inspection had been done. Moreover, the agency originally nominated to undertake inspection was changed at the insistence of the supplier. Despite the vehicles being old and reconditioned, only ten per cent of them were actually examined. Whereas the defence minister had been told that spares for three years would be supplied, they were scaled down to ten per cent of the said quantity in the contract.

The jeep scandal was not an isolated incident. There were others too with suspicious features. Elaborating on this Chandan Mitra says:

Another murky facet of the scandals involving Krishna Menon's buying spree in London was the shadowy presence of one E.H. Potter in almost every deal. He was the representative of four companies with which the High Commission transacted millions of rupees worth of business. Not only was Potter the agent of the supplier who duped India with 155 pieces of scrap metal purporting to be reconditioned jeeps, but was also instrumental in the purchase of rifles and ammunition whose supplies were delayed interminably, thus failing to reach

troops in Kashmir at the moment of their greatest need. Krishna Menon had also responded with inexplicable enthusiasm to a multi-million pound Potter offer to arrange the sale of 32 Mitchell bombers. Mercifully, negotiations over this deal were so protracted that the Defence Ministry in Delhi got exasperated and directed they be called off, thereby averting another potential scandal. Potter, however, remained Menon's blue-eyed agent and thereafter persuaded the High Commissioner to buy 400,000 pounds worth of steel plates in lieu of a failed ammunition deal.<sup>5</sup>

G.S. Bhargava and S.N. Dwivedi have also made the following comments about the ubiquitous involvement of E.H. Potter in deals made by Krishna Menon: 'Thanks to Krishna Menon's undying solicitude for him, Potter wangled a fresh and juicier contract every time he failed to live up to his earlier commitment.'<sup>6</sup>

Krishna Menon was one of the leading intellectuals of the country. He had an austere lifestyle with an arrogant manner and acerbic tongue, which did not win him many friends. There were quite a few in his own political party who wanted to get at him. The alleged irregularities in the purchase procedure and the ultimate fiasco in the supply of jeeps became a scandal and the matter was raised furiously in the Parliament and by the press. The Public Accounts Committee of Parliament, a supreme body of MPs which scrutinizes governmental expenditure, went into this matter and recommended that the entire affair should be examined thoroughly by a committee of high court judges to ascertain what had gone wrong and why. Regrettably, the government did not accept this recommendation. Instead it asked the Public Accounts Committee to 'reconsider their earlier recommendations'. The Committee, however, held its ground. In a further report, the Committee criticized the government's stand, describing it as inappropriate. The Committee re-invited attention to the irregularities committed by the High Commissioner and, in effect, reiterated its earlier recommendation.

As it happened, Prime Minister Nehru genuinely held Krishna Menon in the highest esteem, not merely for his high patriotism and exceptional abilities, but also for his integrity. Nehru was, therefore, not at all convinced that Krishna Menon could have been personally involved in any financial misdemeanour or that this matter needed to be probed by a committee of high court judges. Accordingly, the government announced that no further action would be taken and that the matter was treated as closed.

In retrospect, Nehru's personal decision to reject the repeated recommendations of a body as important as the Public Accounts

Committee of the Parliament for an enquiry by high court judges into the jeeps affair was unwise and unfortunate in the extreme. For if such an enquiry had been conducted, the judges, whatever their findings in relation to Krishna Menon, would have undoubtedly recommended specific measures for ensuring probity, transparency and accountability in government purchases and possibly in the entire range of governmental administration. Such recommendations in the early 1950s could well have resulted in the formulation and promulgation of appropriate codes of conduct for members of the political class holding governmental positions, setting in motion a new trend for honesty in public life. That opportunity was missed with, as we shall see later, disastrous consequences.

Nehru clearly believed at that time that all such talk of growing corruption in high places was ill-motivated gossip, which, if not curbed, might well become a self-fulfilling prophecy. 'The folklore of corruption', says Gunnar Myrdal, in *Asian Drama*, 'then becomes in itself damaging, for it can give an exaggerated impression of the prevalence of corruption, especially among officials at high levels. It is certain that fear of bolstering that impression influenced Nehru consistently to resist demands for bolder and more systematic efforts to cleanse his government and administration of corruption.'<sup>7</sup> And here is even a more forthright explanation of Nehru's attitude on this vexed question, given by Nehru himself. 'Merely shouting from the house-tops that everybody is corrupt creates an atmosphere of corruption', he said. 'People feel they live in a climate of corruption and they get corrupted themselves. The man in the street says to himself: "Well, if everybody seems corrupt, why shouldn't I be corrupt?" That is the climate sought to be created which must be discouraged.'<sup>8</sup>

But the ground reality, unfortunately, was that by the early 1950s, corruption among even senior politicians had begun to surface. The problem at this stage was that of recognizing, with foresight, that corruption could become a demonic problem in the years to come, spreading its tentacles to every organ of the State unless it was nipped in the bud. The new government of the country simply could not shirk that responsibility. At the very least it could and should have taken the following preventive measures:

1. Formulate and promulgate clear, specific and ethical codes of conduct for members of state legislatures, members of Parliament, and both ministers in the state governments and the central government.
2. Establish high-level and independent machinery for the maintenance of constant vigilance.

3. Enact appropriate legislation for the cognisance of misdemeanours and, after due process of law, for the punishment of those found guilty of corruption.
4. Make special provision in the allocation of governmental business, for ensuring that the codes of conduct are observed meticulously, that the vigilance machinery functions objectively and fearlessly and that any breach of the codes of conduct or of the law on corruption is visited swiftly by appropriate punishment.
5. Ensure on the other hand that honest public officials are not harassed by anonymous or pseudonymous complaints and that persons who make frivolous complaints or investigating officers who act in an ill-motivated manner are duly punished.

With such an anti-corruption mechanism in place, dishonesty among politicians and bureaucrats would have been checked effectively at the root, and the whole insidious development of a national ill could have been thwarted at an early stage. Failure to do so resulted in the stealthy growth of corruption in the political class and by the late 1950s, several cases of corruption involving cabinet ministers and a chief minister had come to light. They were dealt with on an ad hoc basis.

But it was becoming apparent that the problem of corruption among the members of the political class was assuming serious proportions and that a systematic examination of this menace could no longer be postponed without serious peril to national administration. In 1961, Lal Bahadur Shastri became home minister and thus became responsible, *inter alia*, for integrity in governmental administration and in the polity of the country. Shastri was deeply concerned about this issue and he persuaded Prime Minister Nehru to agree to the appointment of a high-level committee to study in depth the problem of corruption and to make appropriate recommendations for ensuring integrity in the entire range of governmental activities. A committee was duly appointed for this purpose in 1962 by Shastri who pursued this vital matter personally both as home minister under Nehru and as Nehru's successor and India's second prime minister. Further developments in this regard are dealt with in the next chapter.

In closing this chapter, it is necessary to re-emphasize Nehru's unmatched achievements as India's Founding Father. Nehru gave India secular democracy based on adult franchise and secret ballot. He ensured the establishment of a heavy industrial base. If India today is able to manufacture heavy tanks, aircraft, missiles and other

highly sophisticated equipment, it is the result of Nehru's vision. He promoted a culture of science and technology and made India the largest reservoir of world-class technical personnel. He promoted the concept of non-alignment for all countries of the world emerging into freedom from a colonial past and secured for himself and for India a place in the centre of the world stage during the 1950s. These are historic achievements and they have made him the unmatched hero of the Indian people. They have also made him the greatest Indian of the twentieth century, next only to Mahatma Gandhi.

If in addition to the three fundamental concepts of secularism, socialism and non-alignment, Nehru had personally adopted that of integrity and had also built upon India's ancient heritage of dharma and Gandhi's avowed principles of truth and morality, he would have established the kind of India which every Indian yearns for today. By doing so, Nehru would have lived up even more fully to the historic responsibilities which his leading role in the freedom movement as well as destiny, Mahatma Gandhi and the people of India had entrusted to him.

Why did Nehru not personally ensure the establishment of honest and efficient administration in the country or pursue certain programmes which were obviously essential for the welfare of the poverty afflicted masses of India and for the proper functioning of India's nascent democracy? Undoubtedly these matters fell within the direct charge of home minister and other cabinet ministers in Nehru's government. They were eminent political leaders themselves and it was primarily for them to ensure honesty and efficiency in administration and to pursue other vital programmes for the welfare of the people. Even so, as prime minister and the leader of the country, Nehru had the inalienable responsibility for ensuring, by discreet occasional scrutiny, that each one was doing his job efficiently and comprehensively. And he would have certainly done so if he was not wholly preoccupied otherwise with the affairs of the State. As is well known, Nehru loved the people of India with all his heart and he had dedicated himself totally to their service. He worked long hours every day, very often until midnight and occasionally even till the early hours of the morning. No one could reasonably expect more of the country's leader. The calls on Nehru's time were immense. As prime minister and leader of a country faced with myriad of problems, Nehru had his hands full. In addition, he had the ultimate responsibility of his own political party, the Indian National Congress. On top of all this Nehru appointed himself the cabinet minister for external affairs, another important and, in reality, a full-time

assignment in itself. All this created an impossible burden of responsibilities. It is perfectly understandable that Nehru wanted to lay down the fundamentals of his foreign policy himself and also to ensure its effective implementation under his personal direction. But one wonders whether it was really essential for him to carry all this enormous day-to-day burden for all the 17 years of his prime ministership.

Imagine an alternative scenario. If after an initial period of, say, 1 year, Nehru had divested himself of the external affairs portfolio and had appointed to it a person who had his confidence. This would have been a more effective arrangement for Nehru and would probably have been a more beneficial arrangement for the country. And there was no dearth of suitable persons. B.K. Nehru would have made an excellent foreign minister. He was totally devoted and loyal to Nehru and his foreign policy ideals and objectives. It is not without reason that nearly all countries of the world, certainly all important countries, have a full-time foreign minister who runs his ministry in close day-to-day coordination with the head of government. Under this arrangement, the foreign minister is able to receive visiting foreign ministers and to discuss matters of mutual interest in depth without any paucity of time. A prime minister-cum-foreign minister would never be able to do that in a relaxed atmosphere. Furthermore, a full-time foreign minister is able to travel to foreign countries frequently in pursuit of the foreign policy objectives of his country and when he does so, he is received by his counterpart and frequently also by the head of government. This is the only way to ensure that foreign countries receive and appreciate, at the highest level, a detailed account, with all its nuances, of a country's foreign policy interests and objectives. A prime minister-cum-foreign minister would never be able to do that kind of running around. Even if he sends out his ad hoc representatives, the reception at the other end would just not be the same as it would be for a regular foreign minister. And in critical and emergency situations, a prime minister cannot leave his country and it is precisely at such a time that a foreign minister needs to rush to his counterparts in other countries and explain to them his country's stand on the issues involved in the crisis. Let us take two recent examples. During the thick of war-like developments in Kargil in June 1999, Foreign Minister Jaswant Singh was able to visit China and meet the Chinese foreign minister for a personal talk about all the facts of the situation. The result was enormously advantageous to India. Again, in July 1999, Foreign Minister Jaswant Singh attended a crucial meeting of the Asia and Pacific Forum and had

extended meetings with the participating foreign ministers of several other important countries. As a result, India's stand on the Pakistan-generated Kargil conflict was fully appreciated and applauded. If Prime Minister Atal Behari Vajpayee had at that time held the portfolio of foreign affairs also, he could not possibly have left the country during that emergency even for a few hours. In that situation, the interests of the country may well have suffered. It is thus clearly essential for India to have a full-time foreign minister, functioning of course fully in accordance with the wishes of the prime minister.

Such an arrangement in Nehru's era would have been doubly beneficial. First, it would have relieved Nehru of a considerable amount of day-to-day work relating to the foreign ministry which the foreign minister would have settled at his own level, leaving Nehru more time for some crucially important national issues on the home front—integrity and efficiency in administration, excellence in education, relief to the poverty-stricken masses, clean drinking water in every village, a green revolution in agriculture, etc. Second, a full-time foreign minister of India would possibly have handled foreign relations generally, and the Kashmir issue in particular, in the United Nations Security Council, with much more authority and effectiveness than the ad hoc representatives of India were able to manage. In sum, if Nehru with his soaring idealism, unbounded humanity and absolute integrity, had had some more time for the home front, he might well have bequeathed to his successors a relatively honest, efficient, and capable India. That dream did not come true.

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## CHAPTER 3

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### *Lal Bahadur Shastri— A Life of Integrity*

'Neither before nor after him', writes L.P. Singh, a member of the Indian Civil Service and former home secretary to the Government of India, 'did any home minister or prime minister deal with the problem of corruption in the administration and integrity in government generally in such a systematic manner, and with such earnestness and continuous effort, as Lal Bahadur Shastri. Sardar Patel had certainly dealt with corrupt politicians with a strong hand. For instance it is within my personal knowledge that fear of stern action from him acted as a deterrent to unscrupulous politicians: I can still remember the expression of relief on the face of a minister in Bihar, who had misused his powers and been censured by Sardar Patel, when the news of Patel's death was announced in December 1950. But the gigantic problems arising from the partition of the country and the integration of the princely states, left him little time for a comprehensive enquiry into the question of integrity in administration and public life, and for working out a scheme to deal with the problem. A decade had passed after Patel's death when Shastri took charge of the Home Ministry, and he immediately started giving close thought to the need to ensure integrity in the entire range of governmental affairs. Shastri considered any form of corruption as a cancerous malady, which if not eradicated, or at least curbed, would weaken the moral fibre of the people, prove injurious to all our institutions, and to our plans for development. Its pathology had to be systematically studied and effective remedies applied, however drastic they might be. But he was emphatic that all this had to be done clinically, as it were, and quietly. Any fanfare or public exhibition of zeal, anything in the nature of a publicized crusade, was to be avoided; it would only damage the country's reputation and create an atmosphere of fear and demoralization, without serving the end in view'.<sup>1</sup>

L.P. Singh held the position of special secretary when Shastri was home minister. Later Singh became home secretary and functioned in that capacity during the period of Shastri's prime ministership. For several years Singh had worked with Shastri directly. He was one of Shastri's closest advisers and knew first-hand what Shastri did and what he thought in relation to important affairs of the State. His remarks quoted earlier about Shastri's determined adherence to and promotion of integrity are based upon close day-to-day personal observation.

As is well known, Shastri had suffered severe hardship during his early years. He was able to survive this and to pursue his education with the help of some of his relatives who themselves had very little to spare. While at Kashi Vidyapeeth in Varanasi where he studied for several years, Shastri's favourite subject was ethics. He had learnt early what was right and what was wrong. Shastri had from that early age made integrity—absolute integrity—in all situations and in all circumstances an integral part of his make-up and his character.

Before he became India's second prime minister in succession to Jawaharlal Nehru, Shastri had functioned for many years as a cabinet minister first in his native state, Uttar Pradesh, and then at the centre. He had held charge of several important portfolios such as railways, transport, communications, civil aviation, commerce and industry. In every ministry he had made it known to all officials that while he was prepared to overlook some inefficiency, on no account would he tolerate the slightest dishonesty and corruption. This is within my personal knowledge as I worked with him directly as his private secretary in two ministries and later as his joint secretary when he succeeded Nehru as prime minister.

When Shastri became home minister in 1961, the prevention of corruption and the observance of integrity throughout the governmental machinery became a part of his responsibility. Shastri knew that corruption was on the increase and that even some politicians holding high public office in government had not been able to resist temptation. He knew also that corruption could not be prevented, nor integrity maintained, merely by exhortation. Specific standards had to be set for officials and ministers, and institutional arrangement had to be put in place for independent vigilance, for investigation and for the prosecution and punishment of the corrupt. This was a task which had to be undertaken in a systematic manner. And he soon came to the conclusion that this entire subject in all its ramifications needed to be studied by a high-level committee which could be asked to make specific recommendations.

Shastri was aware of Nehru's reluctance to dramatize this sensitive issue or initiate any highly visible scrutiny but he also knew that once Nehru was convinced of the essential need for such a step, he would readily accord his consent. Nehru trusted Shastri implicitly and held him in the highest esteem and affection. When Shastri, by his own insistence, resigned from the position of cabinet minister for railways and transport in 1956, accepting moral responsibility for two major rail accidents involving loss of precious lives, Nehru had, while reluctantly accepting Shastri's resignation, paid the following tribute to Shastri on the floor of the Parliament:

I should like to say that it has been not only in the Government, but in the Congress, my good fortune and privilege to have him as a comrade and colleague, and no man can wish for a better comrade and better colleague in any undertaking—a man of highest integrity, loyalty, devoted to ideals, a man of conscience and a man of hard work. We can expect no better and it is because he is such a man of conscience, that he has felt deeply whenever there is any failing in the work entrusted to his charge. . . . I have the highest regard for him and I am quite sure that in one capacity or another, we shall be comrades and will work together.

With that kind of relationship, Shastri was able, within the span of a few months, to persuade Nehru to agree to the appointment of a committee comprising some members of Parliament and one or two senior officials to enquire into the problem of corruption and to recommend specific measures for dealing with every relevant aspect of this problem. In fact, Nehru gave Shastri a free hand to proceed on this matter as he liked because he was sure that Shastri would ensure the requisite degree of circumspection at every stage. As a result, Shastri appointed in 1962 a committee with the following composition:

Chairman	—	K. Santhanam, MP
Members	—	Santosh Kumar Basu, MP
		Tika Ram Paliwal, MP
		R.K. Khadilkar, MP
		Nath Pai, MP
		Shambhu Nath Chaturvedi, MP
		L.P. Singh, ICS, Director Administrative Vigilance Division
		D.P. Kohli, IP, Inspector General, Special Police Establishment

The terms of reference of the Committee were:

- (i) To examine the organization, set-up, functions and responsibilities of the vigilance units in the ministries and departments of the Government of India and to suggest measures to make them more effective.
- (ii) To examine the organization, strength, procedures and method of work of the Special Police Establishment and the difficulties experienced by it, and to suggest measures to further improve its working.
- (iii) To consider and suggest steps to be taken to emphasize the responsibilities of each department for checking corruption.
- (iv) To suggest changes in law which would ensure speedy trial of cases of bribery, corruption and criminal misconduct, and make the law otherwise more effective.
- (v) To examine the rules relating to disciplinary proceedings and to consider what changes are necessary in order to expedite these proceedings and to make them more effective.
- (vi) To suggest measures calculated to produce a social climate both amongst public servants and in the general public in which bribery and corruption may not flourish.
- (vii) To examine the Government Servants' Conduct Rules and to recommend changes necessary for ensuring maintenance of absolute integrity in the public service.
- (viii) To suggest steps for securing public support for anti-corruption cases.
- (ix) To consider special measures that may be necessary in corporate public undertakings to secure honesty and integrity amongst their employees.<sup>2</sup>

The terms of reference were comprehensive and wide-ranging. Seemingly, however, there was one lacuna. No specific reference had been made to the problems of corruption among politicians and ministers. But it needs to be recognized that any direct reference to these 'high-ups' would have immediately caused a furore in Parliament.

Some of the terms, for example terms (iv) and (vi), were, however, so worded as to enable the Committee to extend its reach to the 'venerated' categories as well. Furthermore, Shastri made it clear to the Committee officially that its terms of reference were not intended in anyway to restrict the scope of its work and that the Committee should feel free and duly empowered to examine any relevant aspect of the many-sided problem of corruption and to make suitable

recommendations. Shastri requested the Committee further to forward interim reports as soon as the examination of any aspect of the problem was completed in order to enable the government to proceed urgently with further action as required.

The Committee proceeded with its task with the requisite thoroughness and dispatch. It 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 officials. It submitted several interim reports and a final report on 31 March 1964.

In the introductory part of its report the Committee made, inter alia, the following observations:

The tendency to subvert integrity in the public services instead of being isolated and aberrant is growing into an organized, well-planned racket. We recognise 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 Mahatma 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 in India, at the centre and the 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 realised 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 endeavour 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.<sup>3</sup>

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.

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 re-organized, expanded and named as the Central Bureau of Investigation.

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.

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 governmental 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 high public offices such as those of cabinet minister and chief minister and he did so without any fanfare but with unyielding resoluteness.

L.P. Singh observes that:

The five years of Shastri's incumbency of the offices of home minister and prime minister were, without doubt, the high watermark of ethics in government. Working in the Home Ministry, which according to the allocation of business was concerned with the subject, one felt the power of the Gandhian impulse working through Shastri as its sensitive and effective medium. Holding a key position in the political system, Shastri was concerned with its health; and being responsible for the governance of the country as the head of government, he was extremely keen to maintain the quality, effectiveness and credibility of the administrative system. I believe, however, that there was something deeper, the Gandhian legacy, rather than political or administrative considerations, that provided Shastri's primary motivation.<sup>4</sup>

Shastri was firm in his resolve to carry forward the cleansing process, discreetly, step by step and thus to establish throughout the country a new climate and a new lasting tradition of transparency and integrity in government as well as in broader society, so essential for providing a clean and compassionate administration. And with a formidable reputation for total integrity, he had impeccable personal credentials to undertake this gigantic and mightily important task to serve the best interests of the people of India. Unfortunately that was not to be as he passed away on 11 January 1966, after serving as prime minister only for 19 months.

Shastri was succeeded by Indira Gandhi in June 1966.

#### ENDNOTES

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3. *Ibid.*, pp. 12, 13.
4. L.P. Singh, *op. cit.*, pp. 74, 75.

## **CHAPTER 4**

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### *Indira Gandhi and the Problems of Administration*

Indira Gandhi was prime minister of India for a period of 15 years spread over 2 spells. She is regarded by many throughout the world as the most charismatic, most courageous and strongest prime minister India has ever had. She secured a permanent place for herself in world history through the decisive role she played in the 1971 war against Pakistan which led to the establishment of Bangladesh as an independent State.

Not unexpectedly, Indira Gandhi decided to pursue vigorously the policies of her illustrious father, Pandit Jawaharlal Nehru, for the economic development of the country. She also believed passionately in the concept of a socialistic pattern of society, with the commanding heights of economy in the hands of the State and with the private sector playing a subsidiary role under governmental regulation and control. In fact, she wanted to enlarge the role of the State by bringing some vital sectors of economic and financial activity directly under the government's ownership. The ostensible purpose was to ensure the formulation and effective implementation of governmental programmes for the benefit of the poor masses.

As the new prime minister, she had the authority to pursue any policy, economic or political, which she considered to be in the best interests of the country and the common people.

She knew that being Nehru's daughter, she would receive popular support among the masses for the implementation of her radical programme. But she needed to have complete and unfettered control over the Congress Party, both in the country and in the Parliament. The problem was the 'syndicate'—a term used to describe the old leaders of the Congress Party. They were unlikely to fall in line easily. If Indira Gandhi had to have her way, they had to go. With uncanny judgement she decided in 1969 to gamble for all or nothing. She split

the Congress Party. Nomenclature apart, what emerged instead was a new Congress Party owing allegiance to Indira Gandhi alone. Those who did not accept this went out to form another group. After a hard-fought battle, Indira Gandhi came out the winner. She had gained what she wanted—complete and unchallenged control over the Congress Party as well as the members of her party in Parliament. As prime minister, she was now the supreme ruler of the country and no one in her party could question her.

At this point of time, India stood at the proverbial crossroads of history. Indira Gandhi should have known that the economic model for development which she had decided upon, involving enlarged State ownership as well as greater governmental control over the private sector through the mechanism of permits, licences and quotas, would open up huge opportunities for corruption unless firm preventive action was taken by the government of the day. As mentioned earlier, clear warnings about the pernicious menace of corruption had been given by Mahatma Gandhi and Dr Radhakrishnan. 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. If she had decided to do so she would have been seen as a genuine crusader for integrity. She would have undoubtedly received massive support from the people to continue as prime minister for all her life and also for her policies and the development programmes for the alleviation of poverty. In this way she could have established an unshakeable tradition of honesty and transparency in the administrative structure of the country. What a glorious opportunity that was for the everlasting good of the country.

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.'

Factually she was 100 per cent correct. However, morally the implications of her statement were unflattering as portrayed by R.K. Laxman through his renowned brilliance, witticism and sarcasm in the *Times of India* cartoon.

Indira Gandhi was financially well endowed and did not need any outside support for herself. Nor did she seek to amass money for her

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YOU SAID IT by Laxman



Thank you! You know, that I would never dream of accepting if I didn't know that the phenomenon was global.

descendants. But to finance her political party, to reward her loyalists, to manage her political campaign throughout the country, to ensure the success of her nominees at the coming elections and to secure the right succession when the time came, she needed money.

Now there was nothing wrong in Mrs Gandhi wanting money to finance the political activities of her party. In all democratic countries, funds are solicited and collected from willing donors who wish to provide financial support to the political party of their choice. But all this is done openly by lawful means. Contributions are paid and received through normal banking transactions. Proper accounts, duly certified by auditors, are maintained by all political parties and the requisite disclosures are fully made. This prevents any misuse of funds for the subversion of the democratic process. In India, the law in this regard has not been consistently strict and political parties have been collecting contributions both through banks as well as in cash. This leaves the door wide open for the misuse of cash contributions.

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 'licence-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 strings were pulled by the master strategist.

A colleague of mine who once served as commerce secretary told me an interesting story on this subject. An agent of a big business house was known to visit Mishra's office regularly to pay tribute on behalf of his principals. Once the secretary jokingly asked him as to how the operation was performed. After a few days the agent appeared in his office carrying a large, new briefcase. This, he said, is the stuff for his minister. Then he went over to the minister's office, but reappeared soon carrying the same briefcase. The secretary felt relieved at the discovery that his minister had refused to accept the moolah. No, no, the agent explained, he had deposited that briefcase in the minister's office and brought back an identical empty briefcase so as not to arouse any suspicion.<sup>1</sup>

It must be said here that heads of government in many developing countries have used their position and power to collect black money not only for political purposes but also for enriching themselves and their families. Billions of dollars were allegedly salted away in coded Swiss bank accounts by President Ferdinand Marcos of the Philippines, President Mobutu of Zaire and by several other heads of government. Indira Gandhi was completely different. There is no suggestion at all that even a tiny part of the money collected on her behalf was used for any personal purpose. All of it was used solely for the 'management' of her political affairs.

After Indira Gandhi had established herself firmly, Sanjay Gandhi, her younger son, became an extra-constitutional centre of power. Cabinet ministers, chief ministers and other dignitaries often consulted Sanjay Gandhi on important affairs of the State.

In 1975, a new development had a disastrous effect on the political situation in the country. The High Court of Allahabad declared Indira Gandhi's election to Lok Sabha as null and void due to a rather minor electoral malpractice. Left to herself, Mrs Gandhi would, nevertheless, have resigned promptly and sought re-election, and for the

brief intervening period, she would have arranged for a non-entity in her party to function as pro tem prime minister. There is little doubt that she would have come back quickly with a thumping majority and much enhanced moral stature. But Sanjay Gandhi intervened decisively. It was primarily under his influence that instead of resigning, Mrs Gandhi declared a state of Emergency, suspended the Constitution and assumed all powers of governance in her own hands. All liberties were suspended. Numerous persons were arrested overnight and imprisoned without charge. Police agencies were misused to harass innocent people.

In the pursuit of her agenda for complete and unfettered power, Indira Gandhi turned her attention to the administrative structure of the country. From 1947 until 1970, the top echelons of the bureaucracy in India, especially the members of Indian Civil Service and its successor, the Indian Administration Service, had, barring rare exceptions, maintained the highest standards of integrity and objectivity.

In the 1970s, Prime Minister Indira Gandhi propounded the thesis of a 'committed civil service' which, according to Madhav Godbole, a former home secretary in the central government, 'caused havoc in the civil service'. He goes on to make the following further comments:

This concept drew serious criticism as it questioned the very precept of political neutrality on which the edifice of the civil service is built. A new breed of civil servants who were ambitious and wanted to go places fast, quickly came into prominence. 'Be committed or get omitted' became the slogan in the rat race. Fortunately, a large number of people saw the dangers in the new system and raised their voices against it. As a result, Prime Minister Indira Gandhi hastily backtracked and clarified: 'I do not want politically convenient or servile civil servants. Their job is to give frank advice, but they should feel committed to the objectives of the State which have been approved by Parliament. They should have unreserved faith in the programmes which they administer'.

This window-dressing hid the truth; an era of politically-pliable and flexible civil servants was ushered in. This was clearly a turning point in the post-independence history of the civil service. The new success stories passed among civil servants were largely of those who were committed to the ruling party and, better still, to the person in charge.<sup>2</sup>

The further developments in Indira Gandhi's tenure are not within the scope of this book. Only a few landmark facts need to be mentioned. Although she had acquired absolute and unfettered power over the country, she voluntarily lifted the Emergency after a duration of 19 months and restored the Constitution, rule of law and democracy. In world history there would be very, very few examples of an absolute ruler giving up power of his or her own volition. At the ensuing general election to the Lok Sabha, Congress (I) lost badly: the electorate was angry about the horrendous excesses perpetrated during the period of the Emergency. Indira Gandhi and Sanjay Gandhi both had contested the election and had lost. A new government was installed in March 1977 under Prime Minister Morarji Desai. This lasted till 15 July 1979, when Desai lost his majority in the Lok Sabha and resigned. Charan Singh became the new Prime Minister on 27 July 1979 but he was in power for only 23 days! He resigned on 19 August 1979. The tenure of each of these prime ministers was much too short to enable them to make any serious effort to combat corruption.

Meanwhile, Indira Gandhi had not given up. Strengthened and encouraged by Sanjay Gandhi, she fought back in the political arena. At the following election to the Lok Sabha in January 1980, she came back with a thumping majority on the strength of her slogan *Garibi hatao* (abolish poverty). Sanjay Gandhi who had masterminded the election campaign was once again the man effectively at the helm, but the cruel hand of death intervened: Sanjay Gandhi was killed in a flying accident on 23 June 1980.

Indira Gandhi was shattered but she carried on. Soon she decided to groom her other son, Rajiv, for succession. With complete mastery, Indira Gandhi continued to govern India with total authority. But she took one step which resulted in disastrous consequences. On 5 June 1984, she ordered the Indian Army to surround and attack the holiest of Sikh shrines—the Golden Temple in Amritsar—in order to suppress armed rebellion by some Sikh extremists. This resulted in carnage. The Sikh community was deeply incensed and wounded. On 31 October 1984, two of her personal guards, both Sikhs, gunned her down in revenge with a hail of bullets, in the lawns of her residence.

When Jawaharlal Nehru passed away, Gulzari Lal Nanda, the senior-most cabinet minister at that time, was sworn in automatically and instantly by the President of India as acting prime minister to function until the Congress Parliamentary Party elected its new leader. Similarly, following Lal Bahadur Shastri's demise, the same formal

procedure was followed and Nanda, who was again the senior-most in the Cabinet, was sworn in as pro tem prime minister. Only after Indira Gandhi had been duly elected by the Congress Parliamentary Party as its leader, was she sworn in as prime minister succeeding Lal Bahadur Shastri. This election was not a mere ritual. It was an essential requirement of the democratic process. Following Indira Gandhi's demise, however, the then President of India straightaway invited Rajiv Gandhi to be the new prime minister and administered the oath of office to him. The formal election of Rajiv Gandhi as the leader of the Congress Parliamentary Party was a foregone conclusion. And thus, Rajiv Gandhi became the reluctant prime minister of India in succession to his mother.

Rajiv Gandhi had inherited a corrupt polity and a defiled administration. There was much hope that he would combat corruption and regenerate India.

#### ENDNOTES

1. S.S. Gill, *The Pathology of Corruption*, HarperCollins Publishers India (P) Ltd., New Delhi, 1998, p. 69.
2. Madhav Godbole, 'Corruption, Political Interference and the Civil Service' in S. Guhan and Samuel Paul (Eds), *Corruption in India—Agenda for Action*, Vision Book (P) Ltd., New Delhi, 1997, pp. 63-64.

## CHAPTER 5

### *Rajiv Gandhi—A Brilliant Beginning and a Tragic End*

Mrs Indira Gandhi's death was officially announced at 6 p.m. on 31 October 1984. At 6.20 p.m. the same day, Rajiv Gandhi was sworn in by the President of India, Giani Zail Singh, as India's new prime minister. The quiet dignity with which he received foreign dignitaries who came to attend Mrs Gandhi's funeral and the self-possession he displayed as he stood by his mother's cremation pyre were seen on television all over the country and won him the affection and indeed the admiration of the people.

As was widely known, Rajiv Gandhi had not sought power of any kind and had kept himself completely aloof from political machinations. He had a totally untainted reputation for integrity. In his personal life he was chaste and he deeply loved his wife and children.

As he began to function, he met colleagues and subordinates with a winning smile and courteous manners. In his approach to the affairs of the State, 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. He seemed to believe in ethical and moral values since he soon distanced himself from all persons who had acquired an unsavoury reputation.

As Rajiv Gandhi got into his job, a new era in Indian politics and governance seemed to be in the offing. Clearly he lacked experience but he tried to make up for it through his infectious enthusiasm. Soon he began to talk of cleansing India's administration, which had become deeply corrupted. And he wanted also to rid the Congress Party of the thugs who had got hold of it by sycophancy in the previous regime and who were busy lining their pockets. He also had the dream of promoting and accelerating the economic development of India on the lines of 'Japan Incorporated'.

To carry through his own programme, Rajiv Gandhi rightly decided to seek a mandate for himself directly from the people. Accordingly he called a general election in December 1984. Two factors worked for him strongly—first, a sympathy wave in the country following the assassination of his mother, Indira Gandhi, and second, the strong impression of the common people that Rajiv Gandhi was honest to the core and determined to make a new beginning in the governance of the country. The result of the election was stunning. Rajiv Gandhi's party secured a landslide victory, winning 415 seats out of a total of 543, the largest number ever won by any political party in the elections to the Lok Sabha. The opposition was virtually decimated.

The swearing in of Rajiv Gandhi as prime minister after securing a massive mandate from the people for his integrity-based programme constituted one of the most climactic moments in India's history after Independence. The prospect was thrilling and exhilarating. The future of India and of the millions of its people now lay in the hands of one man—Rajiv Gandhi. He, at this time, had the same awesome power as Jawaharlal Nehru had in his heyday. The people began to look forward to a new era in which their welfare would be promoted by an honest, efficient and compassionate administration. In the mind of the general public, Rajiv Gandhi became a crusader for integrity and acquired the sobriquet of 'Mr Clean'. What a glorious moment this was for India and what a grand opportunity it presented for breaking away from the murky past and for making a new beginning.

By the end of the first year of his prime ministership, Rajiv Gandhi had created an immensely favourable image for himself both within India as well as in the countries, which he visited—United Kingdom, United States of America, USSR and France. He had broken away demonstrably from the evils of the past. He had begun to seem quite determined to wipe away corruption as well as the corrupt.

In December 1985, he went to Bombay to participate in the centenary celebrations of the Indian National Congress. At a massive gathering of Congressmen who had come from all parts of the country, Rajiv Gandhi delivered a stunningly candid and chastising address, indicative of the deep anger and anguish in his heart about pervasive corruption and hypocrisy.

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 power and influence, who dispense patronage to convert a mass movement

into a feudal oligarchy. They are perpetuating cliques who thrive by enmeshing the living body of the Congress in their net of avarice. We talk of the high principles and lofty ideals needed to build a strong and prosperous India. But we obey no discipline, no rule, follow no principle of public morality, display no sense of social awareness, show no concern for the public weal. Corruption is not only tolerated but even regarded as the hallmark of leadership. Flagrant contradiction between what we say and what we do has become our way of life. At every stage our private self crushes our social commitment.<sup>1</sup>

Rajiv Gandhi's forthright address amounted to an unequivocal condemnation of the way in which the affairs of the country had been managed under the preceding regime. The new prime minister was well aware that corruption had polluted the polity as well as the administration of the country. He knew also that the result had been disastrous for the people. In one of his statements he had reportedly observed that because of inefficiency and defalcation, only 15 paise in every rupee allocated for welfare programmes actually reached the people. In other words, 85 per cent of allocated funds were being robbed on the way. Surely this was an intolerable situation which needed to change.

But mere condemnation, however strong, was not enough. Concrete action was needed to combat the menace of corruption. Fortunately, Prime Minister Rajiv Gandhi had already announced his intention to cleanse his political party and ostensibly the whole country as well of the prevailing corruption. All he had to do now was to follow-up his intentions with a specific and time-bound programme. At that time corruption had not become as pervasive or heinous as it is today and could well have been reined in by firm action initiated and pursued to that end by the prime minister himself. Rajiv Gandhi could have enacted any law he deemed appropriate for ensuring ethical behaviour on the part of the political class as well as the bureaucracy. He could have set up any machinery that he liked for vigilance purposes and swift as well as deterrent punishment of those found guilty of corruption after due process of law. He could have arranged for the formulation and strict enforcement of appropriate codes of conduct for all holders of 'public office' and could have included in this definition all persons holding political as well as bureaucratic appointments. He could have appointed high level committees to examine, unhypocritically and objectively, the question of appropriate remuneration for ministers, members of Parliament and state legislatures, etc., in order to provide for a reasonable standard of living

and to ensure that they did not need to rely on 'outside' sources. He could have publicly disowned the pernicious doctrine of 'committed' bureaucracy and restored its political neutrality, so vital for democratic administration. He could have arranged for the gradual and well-planned demolition of the 'license, permit and quota raj' and the elimination of corrupt practices in the government's relationship with business and industry.

The recommendations of the Santhanam Committee were already available and provided a basis for further action. If necessary another group could have been constituted to make even more comprehensive suggestions.

Rajiv Gandhi could have done all this and more without the slightest demur from any person in his political party. And he could have carried any legislation through the Parliament where he commanded overwhelming majority.

Such was the golden opportunity for turning India around which Dame Fortune had placed in Rajiv Gandhi's hands. But India missed that opportunity to get on to the high road of integrity because just at this moment Rajiv Gandhi's attention got diverted to other matters of State, away from the most important need of the people—honest governmental administration.

One such matter related to the purchase of Bofors field guns for the army from Sweden. Some background information would help better understand this deal.

The Indian Army had come to the conclusion during the prime ministership of Indira Gandhi that India should strengthen its defence capability by acquiring high power 155 mm calibre field guns. Accordingly, enquiries were launched and the necessary processes initiated. This matter was high on the agenda of the Defence Ministry when Rajiv Gandhi became prime minister in succession to Indira Gandhi on 31 October 1984. According to the then Defence Secretary, S.K. Bhatnagar, the new government under Prime Minister Rajiv Gandhi 'decided that henceforth defence contracts would be transacted and concluded totally without agents' and further that 'the deal would be totally and exclusively between the Government of India on the one side and the manufacturers on the other.'

In accordance with this decision of Prime Minister Rajiv Gandhi, Defence Secretary Bhatnagar invited the senior-most representatives of the 4 contenders who were at that time competing for the supply of the 155 mm guns, to a meeting with him on 3 May 1985. At this meeting, Bhatnagar informed these 4 representatives 'that the Government of India would not permit the involvement of Indian agents,

acting for the foreign suppliers.' He, therefore, requested them 'to make suitable reduction in their offers in case they had kept any commission for payment to the Indian agents.' The representatives were also warned by Bhatnagar 'that the Government of India would disqualify a firm in case it came to notice that an agent had been appointed in connection with the contract.' This warning, according to Bhatnagar, 'was a major factor which resulted in the reduction' of previously quoted prices.<sup>2</sup>

After a further re-evaluation of the bids, only 2 suppliers were shortlisted. These were Sofma of France and Bofors of Sweden. At this stage, the Swedish Prime Minister, Olof Palme, decided to enter the arena himself. He raised the Bofors case with the Indian Prime Minister, Rajiv Gandhi, when they met in New York in October 1985. This has been confirmed by the then Defence Secretary, Bhatnagar, (JPC Report, para 7.11). No detailed information is available about the discussions between the two prime ministers at this meeting but something did transpire which necessitated consultations between Olof Palme and the management of Bofors before any concrete progress could be made with the deal. Back in Sweden, Olof Palme did the requisite homework quickly and then decided to proceed to India to meet Rajiv Gandhi again. At his request, this visit was fixed for the second half of January 1986.

Olof Palme travelled to India informally and met Rajiv Gandhi for personal talks. At this meeting, according to Bhatnagar, Prime Minister Olof Palme informed Prime Minister Rajiv Gandhi that Bofors had declared their wish to conclude business directly with the Indian defence ministry without any middlemen.

That was the meeting at which the two prime ministers virtually fixed the Bofors deal. Both prime ministers had achieved, to all appearances, the result they wanted. Olof Palme had a huge defence contract in the bag for his country and Rajiv Gandhi had secured the deal on his terms—an honest, transparent transaction without any middlemen whatsoever and, therefore, without commission or kick-back to any party. The officials were then to proceed with the preparation and signing of a contract for the deal.

Unfortunately, the cruel hand of fate intervened soon thereafter to end this close relationship. On 28 January 1986, Prime Minister Olof Palme was shot dead by an assassin whose identity has never been discovered. However, as the Bofors matter had been settled already, this deal was not affected in any way by this tragic development.

Prime Minister Rajiv Gandhi went to Stockholm and attended the funeral ceremony on 15 March 1986. He was the only foreign head

of government to be accorded the honour of making a speech. He made a restrained and dignified address.

Earlier that day Rajiv Gandhi had met the new Swedish Prime Minister, Ingvar Carlsson. After conveying his condolences, as Ambassador Oza records, Rajiv Gandhi came straight to the point. He told Ingvar Carlsson that he had recorded his decision on the file approving the award of the contract for the howitzer gun to the Swedish company AB Bofors subject to certain clarifications from the Swedish Government regarding financial terms of the contract. Prime Minister Ingvar Carlsson thanked Rajiv Gandhi and suggested that the concerned officials on both sides may sit together and sort out the matter. Carl Johan Oberg from the Swedish side and Chinmay Gharekhan, additional secretary, from the PMO sat together the same evening for less than an hour and settled the matter. The contract was now ready for signing in its final form.<sup>3</sup>

Prime Minister Rajiv Gandhi left Stockholm the next day, i.e. on 16 March 1986. Back in his office on 17 March 1986, he gave the final green signal to the Bofors deal. Thereafter the concerned officials in the Defence Ministry processed the Bofors file for obtaining the requisite clearances and the authority to sign the relevant contract. This was a huge deal and the greatest possible care had to be exercised. As is well known, in compliance with the strict procedures prescribed by the Government of India relating to purchases by government, the approval of various concerned officials and ministers and also in appropriate cases, of the prime minister himself needs to be recorded by each one of them on the relevant file, signifying the acceptability of the proposal on file in all its details. The world knows the ponderous style of the Indian bureaucracy and the long time which is ordinarily taken at each stage. But this was not an ordinary case, the prime minister himself being the ultimate negotiator. Even so, the rapidity with which the Bofors file, which related to a purchase order of US \$ 1.3 billion, moved from one desk to another and the completion of the entire round involving several officials, 2 ministers and the prime minister himself, in just 6 days had established an unprecedented and unbeatable record of celerity in governmental decision-making.

Thus by 24 March 1986, all the requisite formalities in respect of the Bofors deal were completed by the Defence Ministry. The chief of the army staff had already certified on 17 January 1986 that the Bofors howitzer gun was the best among those on offer. Furthermore, earlier that month, that is on 10 March 1986, Bofors had sent a

letter to the Defence Ministry purporting to convey the requisite assurance about 'no middlemen' in the deal. In regard to this particular matter—no middlemen—Bhatnagar was categoric when, at a later date he said: '... it was quite clear that we would satisfy ourselves fully before we entered into the final deal ... it was a condition precedent to the finalisation of the contract.'<sup>4</sup>

It was in the preceding context that the contract for the Bofors gun was signed on 24 March 1986 between the representatives of the Government of India and the representatives of Bofors. By his personal intervention with the Prime Minister of Sweden, Prime Minister Rajiv Gandhi had ensured total probity in the deal by the specifically agreed upon elimination of all middlemen and thus the elimination also of any commission or kickbacks or bribes or any other payment of this kind.

This is how the Bofors transaction was seen then and would have been seen forever thereafter. One year passed without any further developments regarding this deal. Then suddenly on 16 April 1987, in a Swedish radio broadcast in Stockholm it was said that Bofors had paid large bribes through Swiss banks to certain intermediaries in order to win the Indian defence contract. This announcement shook the people of India and there was instant furore in the Parliament and the press.

Prime Minister Rajiv Gandhi denied categorically any knowledge of the involvement of any middlemen in the Bofors deal. During a debate on this hot issue in the Lok Sabha on 20 April 1987, the Prime Minister stated, *inter alia*, the following:

... I got confirmation from Prime Minister Palme that there will be no middlemen or agents involved. It is on that basis that this exercise was done. We have to take somebody's word as truth and when a prime minister of a country assures us after having gone into in great depth with the company that was involved that there are no middle agents involved, then we have to accept somebody's word. ... You show us any evidence that there has been involvement of middlemen, of pay-offs or of bribes or commissions, we will take action and we will see that nobody however high-up is allowed to go scot-free. To the best of our knowledge, there is no agent involved. We have been assured by the company, we have been assured by the Swedish Government that there is no agent who has been involved. We had got a telex from the Swedish Government saying that they had checked up and on the basis of that they have said 'no'....

The Swedish radio, however, continued to maintain its position and, in fact, strengthened its stand when the head of the Swedish National Radio Company (Sveniges Riksradio AB), Mr Ove Joanson, made the following public statement on 21 April 1987: 'Our news reports that Bofors paid bribes in order to get the Indian order are based on information that our news department obtained in Stockholm. This information has been judged according to strict news criteria and was only published after customary evaluation of their sources. Our information is solid.'

In view of the public consternation over this matter both in Sweden and in India, Bofors gave a written report acknowledging that they had made certain payments in respect of the Indian contract to certain unnamed parties but they claimed that these payments had been made 'in accordance with the contract for the reimbursement of consultant services within the areas of marketing and counter purchasing'. This was a qualified admission but an admission nevertheless that Bofors had made secret payments to some third parties. This evidently needed to be investigated thoroughly. In this context, the Swedish Government asked the Swedish National Audit Board to conduct an investigation urgently.

The Audit Board completed its work promptly and submitted its report to the Swedish Government. A copy of this report was handed over by the Swedish Embassy in New Delhi to the Government of India. Before handing over this copy, the Swedish authorities had blanked out certain portions. The report, such as it was, confirmed that commissions had been paid to middlemen or agents or brokers and further that these payments were not related to any specific jobs or services. But the names of the recipients of these commissions and the details of the related bank transactions had been blanked out as Bofors had claimed commercial secrecy for this information under the applicable Swedish legislation.

In India, the Bofors issue was continuing to boil. The furore in Parliament was showing no signs of abating. In this situation, a Joint Parliamentary Committee was established to probe into this matter. The Committee received evidence from the Ministry of Defence. It invited also a team from Bofors and received some hitherto unavailable details. The Committee sent out a team to Sweden to obtain information from Swedish government officials. Furthermore, the Committee utilized an agency to check the information, which had been provided by Bofors about the parties to whom payments had been made.

As a result of the Committee in enquiries, the following came to light:

1. To meet their contractual obligations, Bofors had paid 'winding up' charges to three companies as described below:
  - (i) Svenska Inc. registered in Panama—Swedish Kroners 188.4 million.
  - (ii) Moresco/Moineao S.A. (PITCO) registered in Switzerland—Swedish Kroners 81 million.
  - (iii) A.E. Services Ltd. Registered in the UK—Swedish Kroners 50 million.  
Total amount paid—Swedish Kroners 319.4 million (more than US \$ 50 million).
2. For administrative support services, monthly payments had been made to Win Chadha's Anatronic General Corporation in India. This company did not receive any 'winding up' charges.

Enquiries made by the investigating agency had revealed that the first two of the three companies to whose accounts winding up charges had been paid were 'dummy' companies. The third—A.E. Services Ltd., registered in the UK, was active. It had entered into an agreement on 15 November 1985 with AB Bofors for 'consultancy' services. For this work the company was to receive a commission of 3 per cent on sales provided the sale contract was concluded before 1 April 1986. The only task which the company had performed for Bofors was to give some advice personally to the then President of Bofors, Martin Ardbo, 'relating to the manner and timing of negotiations and contents of the contract'. No explanation was provided by Bofors as to why the services of this company were suddenly needed in November 1985 and why the payment of such a large commission was agreed to.

At that time no information was available with regard to the identity of individuals who stood behind the smoke screen of these three companies.

The Joint Parliamentary Committee examined this matter to the best of its ability and eventually the Committee reached the following conclusions:

1. The Bofors gun was technically excellent.

2. The negotiations had been conducted by the Ministry of Defence superbly.
3. The price paid was the lowest on offer.
4. No middlemen were involved in the negotiations, Indian or non-Indian.
5. No commissions or bribes had been paid to anyone, Indian or non-Indian.

In brief, the Joint Parliamentary Committee did not find anything wrong with the Bofors deal, vindicating fully the position of Prime Minister Rajiv Gandhi and recorded its findings accordingly.

For Prime Minister Rajiv Gandhi and his government, the Bofors episode ended with the adoption of the Joint Parliamentary Committee's Report. However, at the next general election in 1989, Bofors became the principal issue. V.P. Singh campaigned vigorously and talked about this deal at meetings in all parts of the country. Rajiv Gandhi's Congress Party which had won 415 seats out of 543 seats in the Lok Sabha in 1984, slumped badly to 197 seats only and lost majority. Rajiv Gandhi had to resign and was succeeded by V.P. Singh as prime minister. Investigations into the Bofors deal were resumed and have continued ever since.

Tragically Rajiv Gandhi was assassinated brutally on 21 May 1991, and thus fate deprived him of an opportunity to redeem himself. An extremely genial and straightforward person who had begun his prime ministership at a very young age on a note of high promise, alas, died in the prime of his life.

From the information which has since been provided by the Swiss authorities to India's CBI, it is now contended that the commission of US \$ 7.2 million paid by Bofors to A.E. Services Ltd., one of the three companies referred to earlier, was eventually received by Ottavio Quattrochi, an Italian businessman stationed in New Delhi and now living in Malaysia. The Court dealing with this matter has since decided to take cognizance of the CBI charge sheet and to proceed with the case on the basis of available evidence. Its findings may yet unravel the mystery of the Bofors payments.

During the subsequent 14 years since the Bofors deal, the problem of corruption has assumed demonic proportions. In fact, Bofors has paled into insignificance in the context of mighty Rs 1,000 crore scandals of recent times. And as we shall see in the following chapters, corruption has since galloped ahead.

## ENDNOTES

1. S.S. Gill, *The Pathology of Corruption*, HarperCollins Publishers India (P) Ltd., New Delhi, 1988, p. 82.
2. Defence secretary, S.K. Bhatnagar's Evidence before the Joint Parliamentary Committee probing into the Bofors deal, paragraphs 7.7 and 7.10 of the Committee's Report, Government of India Publication, New Delhi, 1988.
3. B.N. Oza, *The Ambassador's Evidence*, Konark Publishers Pvt. Ltd., New Delhi, 1997, pp. 15, 16.
4. *Joint Parliamentary Committee Report*, Government of India Publication, New Delhi, 1988, para 7.15.

## CHAPTER 6

### *Cancerous Growth of Corruption in the Post-Rajiv Gandhi Period*

Following the 1989 General Election in which Rajiv Gandhi's Congress Party lost its dominant position in the Lok Sabha, India has had 6 prime ministers—V.P. Singh, Chandrashekhar, P.V. Narasimha Rao, H.D. Deve Gowda, I.K. Gujral and the present incumbent Atal Behari Vajpayee. All of them have been dependent upon coalition partners and/or outside supporters for survival. Four of these prime ministers, namely V.P. Singh, Chandrashekhar, H.D. Deve Gowda and I.K. Gujral could not complete even one year in office because of the fickleness of coalition partners and supporters outside the government. In relation to the menacing problem of corruption, none of them played a significant role because of the brevity of their tenure in office. V.P. Singh tried to get to the bottom of the Bofors payments scandal but without any significant success. Prime Minister Gujral was troubled by pervasive corruption and he referred to this problem in anguished tones in his Independence day address. But ruefully he admitted that he had no magic wand which he could wield to wish away this demon.

Mr P.V. Narasimha Rao, who became prime minister on 21 June 1991, was able to stay on in this job for the full term of 5 years although the Congress Party was somewhat short of a majority. He managed to cobble together outside support and, to the surprise of many, the arrangement did not fall apart. Rao and his Finance Minister, Manmohan Singh, will always find an honourable place in India's modern history for initiating the much needed economic reforms which set India on the road to rapid industrial advancement, so essential for the welfare of the common people.

What about corruption? Narasimha Rao was known and admired for his erudition and quiet dignity. He had considerable ministerial experience in previous governments. Within the Congress Party he

was well liked and trusted as an elder statesman. When Rajiv Gandhi was brutally assassinated in 1991, the Congress Party desperately needed another leader. Some senior members of the party wanted Rajiv Gandhi's widow, Sonia Gandhi, to become the new leader but this move did not succeed. The Congress Party then drafted Narasimha Rao for the job, recalling him from self-imposed retirement.

With such an erudite and sagacious person at the helm of affairs, considerable hope was generated that corruption would not be allowed a free reign anymore. But that was a short-lived expectation. Corruption scandals involving cabinet ministers, chief ministers and ultimately even Narasimha Rao began to emerge during his term in office with saddening frequency. Several books have been written which describe in detail the devious means which were adopted in each such case. Among these were the Harshad Mehta scam involving shares and securities, perpetrated in connivance with bank officials, causing horrendous losses to ordinary shareholders, the sugar scam, the urea scam, the fodder scam, the health department scam, etc. A Central Government minister was found in possession of more than Rs 3 crore in cash in his residences. One minister reportedly extracted bribes even from senior government officials for allotting government residential accommodation in the capital, New Delhi. This was another example of the most brazen and completely uninhibited corruption. And so this sordid story goes on and the catalogue of scams increases all the time.

The scenario in the entire country today is dishearteningly bleak. The poison of corruption has seeped down to all areas of national activity. The most heinous aspect of this phenomenon is the devilry in every government office, which causes unbearable suffering to common people. Let us look briefly at this horrid and seemingly uncontrollable phenomenon.

### *Precipitous and Pervasive Decline in Integrity and Standards*

#### Bureaucracy

In August 1947 when India became Independent, the country's bureaucracy was regarded as efficient, disciplined and devoted to, as well as adequate for, its current responsibilities. It was subject to fairly rigorous Government Servants Conduct Rules. The top cadre of this bureaucracy was the famed Indian Civil Service. Its members were comparable to the best civil servants anywhere in the world.

In 1998, the Indian bureaucracy was assessed as one of the worst in Asia, let alone the world. This was the verdict of a Hong Kong-based 'think tank' called Political and Economic Risk Consultancy, based upon its recent annual survey of businessmen who have been interacting with the bureaucracies of Asian countries. The result of the survey was circulated among businesses and chambers of commerce throughout the region.

On a 10-point scale, Singapore rated the best at 2.53 and Vietnam rated the worst at 9. Here is the complete table (Table 7.1).

Table 7.1 Assessment of Asian Bureaucracies by Political and Economic Risk Consultancy, Hong Kong, 1998

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	Philippines	7.25
8	China	7.33
9	India	8.00
10	Indonesia	8.00
11	South Korea	8.27
12	Vietnam	9.00

The *Economic Times* made the following comments about this report in its editorial on 11 March 1998:

This is indeed a sorry state of affairs for a country which was once proud of the quality of its administration, the dedication of its bureaucratic personnel and the knowledge they employed. On all counts, our collective confidence in our institution of administration is severely eroded. Without radical reforms, a re-orientation of our massive civil service machinery—so as to provide the necessary support of governance to a flourishing market economy—will not be possible. The unacceptable quality of India's administration today is a serious hindrance on the attempts of the nation to grow. It increases transaction cost, inhibits market forces, wastes public money, and thrives on an ideology by which the state takes on unnecessary tasks while being unable to perform its basic functions. Before radical changes can be implemented, it is this ideology which will have to be reshaped.<sup>1</sup>

Because of the enhancement, since Independence, of the role of the State in economic activities, there has been a large and rather uncontrolled increase in the size of Indian bureaucracy. The total number of central government employees grew from 14.4 lakh (1.44 million) in 1948 to 38.7 lakh (3.87 million) in 1997. The system of administration and the method of decision-making are almost as leisurely today as they were prior to Independence when the purpose and objective of governmental administration was limited to the maintenance of law and order and of status quo in all respects. And this despite the intervention of the Administrative Reforms Commission which was established by Lal Bahadur Shastri just prior to his demise, primarily for the purpose of changing the system of administration in order to cut out 'red tape' as much as possible and to quicken the pace of decision-making. The massive report submitted by this Commission and its numerous recommendations have not made any visible impact. The entire bureaucracy is seen by the people as uncaring, inefficient, arrogant and corrupt. Undoubtedly there are still quite a few officials who are honest but their number is apparently an insignificant proportion of the total and it is dwindling.

Even the Indian Administrative Service (IAS), the successor of the Indian Civil Service, has ceased to be above reproach. It is no longer perceived as a model of efficiency and effectiveness. It is also no longer perceived as a model of integrity. Numerous cases of corruption involving all categories of bureaucrats including members of the IAS have come to light but none so alarming and degrading as the one described next.

On 16 January 1998, N.C. Saxena, a member of the IAS and secretary to the Government of India, Ministry of Rural Areas and Employment, wrote the following letter to R.S. Mathur, IAS Chief Secretary to the Government of Uttar Pradesh, India's largest state:<sup>2</sup>

Two days back I had gone to deliver a lecture at the IIPA, New Delhi for a vertically integrated programme of Indian Forest Service Officers (all belonging to UP cadre and working in different districts of UP). During discussion, they complained that in many districts in Uttar Pradesh, the Employment Assurance Scheme (EAS) funds are 'auctioned' by Collectors and DRDA authorities. Since EAS funds are not earmarked for any particular department and the nature of works is such that projects can be prepared by many departments, such as PWD, Agriculture, Horticulture, Soil Conservation, Forests, Minor Irrigation, etc., there is an informal 'bidding' among these departments and whichever department is able to offer the highest amount of bribe to the Collector, is able to get EAS funds for the project. The bribe money is around 30 per cent of the total funds, according to the participants in the Course. It was also alleged that this money is shared with local politicians, intermediaries and officials of DRDAs. This does not include bribes and commissions, which have to be shared between different officers of the department, which gets the 'contract'! The general feeling among the participants was that between 50–60 per cent of EAS funds are thus spent on bribes and corruption, and the real benefit to the people is thus reduced at least by 50 per cent.

Since these are very serious allegations, levelled by officers working in the field, I thought I would bring it to your notice. You may like to organise technical teams to do cent per cent verification in a few randomly selected blocks.

A facsimile of this letter was published by the *Pioneer* in its New Delhi edition dated 10 February 1998 and was accompanied by comments and further details which indicated that the 'auction' system described by N.C. Saxena, operated in several other states as

well besides UP. Here are some extracts from the report published by the *Pioneer*:

This is an auction no one has ever heard of. The auctioned item here is public funds running into several thousand crores meant for the rural poor. Both the auctioneers and the bidders are same, Bureaucrats and Politicians.

The EAS which was inaugurated with much fanfare on 2 October 1993, envisages 100 days of assured employment during the agricultural lean season to rural workers of 3,206 backward blocks in 393 districts spread across 23 States and four Union Territories. So far, both the Central and State Governments have spent more than Rs 4,500 crore on the scheme.

At the district level, the programme is handled by the DRDA headed by a district collector or a deputy commissioner.

Senior officials in the Comptroller and Auditor General's office, who had investigated the utilisation of funds in the EAS, said the practice of fund auctioning was prevalent in other States as well.

In an exhaustive investigation carried out last year, the auditors found that district collectors, block development officers and local politicians have been lining their own pockets with the project funds.

In Nagaland, for instance, the project director of the State Rural Development Agency withdrew Rs 11.20 crore from a saving bank account (no. 012/4835) in the State Bank of India, Kohima, to a fixed deposit in his name. The money remained in this account for 180 days and earned him Rs 56 lakh in interest. The officer returned the project money to the SBI account but retained the interest in his personal account.

The total amount kept in personal accounts in other States is estimated to be more than Rs 111 crore.

There were other serious irregularities in Nagaland. Wages worth Rs 15.45 lakh were paid to MLAs in Dimapur and Mon districts instead of the labourers. Another Rs 15.45 lakh was paid to certain important persons, their private secretaries and Government officials, and Rs 8.45 lakh to two office-bearers of a political party.

In Maharashtra, the District Soil Conservation Officer, Malegaon (Nasik) doled out Rs 32.82 lakh to 22 voluntary organizations which were neither registered nor had ever worked in the rural areas.

Another serious irregularity was in parcelling out work to private contractors which should have been given to farmers and labourers in rural areas.

In Andhra Pradesh, Karnataka, Madhya Pradesh, Sikkim, Tamil Nadu, Gujarat and West Bengal, EAS work worth Rs 193 crore was given to private contractors and middlemen.

As for the poor, they could only get 16 to 19 days of employment against the promised 100 days in a year. And that too, in many cases, at wages far below the minimum prescribed wage.

It needs to be mentioned that the district collectors who allegedly auctioned the funds of the Employment Assurance Scheme (EAS) were, save exceptions, members of the IAS.

One more instance and then it will not be necessary to write any further about pervasive corruption in India's bureaucracy. According to a report published in the *Indian Express* of 13 March 1998, the Patna High Court, while hearing a public interest litigation case, indicted that the public servants in Bihar were 'totally corrupt and a slur on Bihar's reputation'. Just a day earlier, N.C. Saxena, Secretary to the Government of India, Rural Development, had written a letter to the Bihar Government Chief Secretary B.P. Verma, bluntly stating that officers in Bihar were a corrupt and inefficient lot who were involved in making money for their political bosses by siphoning off funds meant for the weaker sections of society. Reporting this in its issue dated 13 March 1998, the *Pioneer* provided further information that at least a dozen senior bureaucrats and more than 1,200 gazetted officers were facing corruption charges in Bihar where central government 'assistance funds' for the majority of poverty alleviation schemes had been virtually looted by government employees in league with contractors and politicians. This report contained names of senior officials who were facing corruption charges and who held top administrative positions as, for example, member, Board of Revenue, labour commissioner, additional finance commissioner, divisional commissioner, district magistrate, excise commissioner, etc. Most of these officials were members of the IAS.

That, sadly, is the present picture of India's top bureaucracy, which in 1947 was the pride of the country.

### Police

Throughout the country, policemen are paid deplorably low salaries. No wonder then that they use their power under law to secure a supplementary income. If a citizen has a grievance, he must pay a bribe before he can get a hearing and he must pay more to get some redress. In every locality musclemen have formed gangs who extract

'protection' money from shopkeepers and other individuals. These thugs make weekly payments to the policemen of the locality and thus they are able to operate with impunity. And the story is no different at the higher rungs of the Police Department. Sometimes even policemen have to pay bribes to other policemen! Here is a hilarious story published in the *Times of India* in its New Delhi edition on 21 May 1998.

### 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 a matter of obligation. These rights are jealously guarded by the 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. But when a sub-inspector has to cough up cash to a couple of constables to secure safe passage, it is undeniably a cause for concern. A sub-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 indignantly 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. . . .

Truck drivers who usually carry loads over permissible limits know how to get past police check barriers. They have only to show, and deliver, at each barrier one piece of paper—a hundred rupee note, and off they go, much in the manner of car drivers who pay prescribed sums of money at toll collection points.

If you are driving a car in New Delhi, you have full freedom to move in any manner you like. For example, you can overtake from the left or the right and you need never give way to any other car if you have a heavy enough vehicle. If you are in a small passenger car, you would be wise to take no chances. Give way to traffic from the left and also from the right. There seem to be no traffic rules and

none are observed in any case except one. Do not cross a red light at a traffic crossing, for if you do and there is a traffic constable around, he will signal you to stop, which you must. He will stretch out his hand to you, ostensibly for your driving licence. If you are smart, you put a Rs 100 note in his hand and then you can drive away without any hassle.

The truth is that in some parts of the country, a person can get away even with murder if he has enough money to pay the police and if he has close contacts with the local heavyweights. On the other hand, false cases can also be registered against innocent people and can be pursued with the connivance of the police to harass or to extract money.

This is not an exaggerated picture. Far from it. The reality today is that common people try their utmost to lead a low-key life and to avoid any involvement with the police. In many localities, policemen are suspected of being in league with thieves and dacoits. The general public perception is that the police is no longer a force that provides protection but one that harasses. Of course there are still some honest persons among the police force but they are far too few and far between. The main reason for this sorry state of affairs is the very low remuneration paid to them. With ever rising prices, policemen just cannot survive on the wages they get. They cannot provide proper education to their children. They cannot afford proper medical aid. They are left with no alternative except to abuse their power. But once they go down that road, they go downhill. There are also serious complaints against senior police officers including those belonging to the Indian Police Service. 'These include', according to Godbole, 'widespread violation of human rights, large-scale abuses of office and authority by a number of unscrupulous officers, close connections among the police, criminals and the politicians, undue lenience in criminal and other cases against industrialists, business persons, politicians and others, and so on. The unsympathetic attitude to the economically and socially weaker sections of society and minorities has led to a further lowering of the image of the police in society.'<sup>3</sup> The result of all this is a chaotic society in which members of the police force are seen not as friends but as potential foes. The very foundation of civilized society today stands badly shaken and may crumble in the not too distant future if corrective steps are not initiated immediately.

## Judiciary

Of all the great constitutional institutions of India, the Supreme Court is still held in the highest esteem by the people of the country for its integrity, transparency and impartiality. Thank heaven for that because if the Supreme Court of India had also got besmirched, there would be nowhere to go from there. It is principally because of the 'judicial activism' of the Supreme Court and the constitutional provision for 'public interest litigation' that some of the highest dignitaries of the country today stand arraigned in the docks facing criminal charges.

At the state level, the High Courts are still regarded as safe havens for impartial judicial decisions though the reputation is not totally untainted.

At the district level and below, the judiciary of the country is, however, in a chaotic state. The process is far too slow, almost unending. The number of cases pending in courts is astronomical. A civil case relating to property rights may take not a few months, not even a few years but ages. Hearing dates are fixed and then postponed for flimsy reasons. And even when a judgement is delivered there is no certainty that it will be based on objective merits. The subordinate judicial system reeks of corruption.

Soli Sorabji, one of the most respected and admired legal luminaries of the country who at present holds the high office of the Attorney-General of India, made some caustic comments about the prevailing chaos in the country's judicial system, while delivering his inaugural address on 29 June 1998 at a workshop on access to justice, organized for Commonwealth countries. 'The inaccessible judicial system in the country, if allowed to continue, will lead', he said, '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.<sup>4</sup>

Following Sorabji's comments, *The Asian Age* came out with an editorial on 1 July 1998, attributing the current chaos in India's judiciary to the stalking demon of corruption. This editorial said it all in forthright, uninhibited language and is quoted 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 be 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 the 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 now denying justice. The common man's woes are aggravated by the fact that 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 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 citizen 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 'incentive' has 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 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 ridden 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 the criminal justice administration system to the 'police, politicians, criminals nexus,

archaic legal system, lack of dynamic management in the changing crime scenario and lack of public cooperation'.<sup>5</sup>

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

### Education

Schools in the rural areas are in a chaotic state. Because of corruption, teachers are appointed mainly on the basis of patronage. They receive their salaries but do precious little teaching. In urban areas, schools and colleges are better managed but the standard of teaching leaves much to be desired. Teachers have evolved a novel method of supplementing their income. They teach in a perfunctory manner in the classrooms of the institutions where they are employed but they hold private tutorial class at home and charge fees in good measure. Those students who wish to do well have necessarily to join these tutorials if they can afford to pay the extra charges. Those who do not have the necessary resources are left to their own devices.

The universities that were functioning at the time of Independence were regarded as centres of excellence. Of necessity many more have been established since. Barring a few venerable exceptions, all others have become the hotbeds of corruption and political intrigue. Appointments of teachers are made, more often than not, on the basis of political affiliations and caste rather than merit. Vice-chancellors are selected on the basis of partisan politics.

Examinations conducted by most of colleges and universities and the degrees awarded by them have lost credibility. In an article published in the *Pioneer* in its New Delhi edition dated 25 January 1999, Joginder Singh, former CBI director, gave the following grim account of the situation in this regard:

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

On the whole, education in India is in a deplorable state. There is no serious effort to build up good citizens of tomorrow. There are hardly any centres of excellence in the field of academic education. Fortunately, there is one exception—technical education. The Indian Institutes of Technology have attained and maintained a very high level of education, comparable to the best in any other country. Other institutions of technical education also have a good name, especially those in the field of rapidly advancing computer technology. The Indian Institutes of Management are also highly regarded. These technical and management institutions are heartening oases in the desert of the educational system in the country. The entire field of general education is plagued by the same ubiquitous disease—*corruption*.

### Medical Services

Medical aid to the poor is provided through dispensaries in rural areas and hospitals in cities, run as government institutions. The dispensaries are ill-equipped and the doctors appointed to man them usually play the truant. They run instead private practices of their own while drawing their salaries regularly from the public exchequer.

The government hospitals, almost everywhere, even in New Delhi, are in a scandalous state so far as sanitation and hygiene are concerned. Money meant for medicines, medical supplies and maintenance are diverted in no small measure to the pockets of the managers of these hospitals. Recently, the superintendent of the most important government hospital in New Delhi was arrested on charges of corruption. What happens in other places can well be guessed at. In brief, the poor have no assurance at all of appropriate or timely medical aid, largely because of the demon of corruption.

Privately-run dispensaries, pathology laboratories and hospitals are in much better shape. They are generally well maintained and well run with the requisite standards of hygiene and sanitation. They have attentive and well-qualified panel of doctors.

## Roads

In most areas of the country, the roads are in a deplorable state. Why? Because of corruption. Funds allocated for new roads are partly defalcated and this is done by sub-standard construction. New roads develop potholes and need repairs soon after they are completed. Most of the money allocated for repairs is diverted to private pockets. Those vested with the responsibility to supervise and to ensure that construction or repair work proceeds according to contracted standards, are themselves corrupt. Engineers, bureaucrats, politicians—all join hands to line their own pockets.

The result is horrendous. Because of the poor condition of the roads, the traffic slows down, the cost of transportation increases, vehicles get damaged and need extra repairs. Poor and inefficient infrastructure has an adverse effect on the economy. But there is no recourse.

## 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 businessmen 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, they 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 hundreds fell dangerously ill. This diabolical crime was, in effect, no different from pre-meditated 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 to? 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.

## Business and Industry

The bulk of corruption in India originates in the business and industry sector. Barring a few, indeed a very few, honourable exceptions, those operating in this sector have never been deterred by any scruples or any rules even of business ethics. There has been only one governing principle—make as much money as possible and as quickly as possible regardless of means. The rest follows.

Some part of business gains is kept out of the account books. This is black money on which, by definition, no tax is paid to the public exchequer. Such black money is generated all over the country and its annual aggregate would be an astronomical sum. This money is used according to the discretion of the owner for, *inter alia*, the following 'off the record' purposes:

1. Financing the parallel black economy of the country, which is often inextricably intertwined with the white economy.
2. Purchasing properties through *benami* transactions.
3. Payment of substantial sums of money, concealed in briefcases or suitcases, to politicians in power—ministers, members of Parliament and others, in return for various official favours.
4. Payment to bureaucrats holding positions of power and patronage.
5. Payment to officials concerned with the assessment of income tax, corporation tax, wealth tax, customs duties and excise duties with a view to securing the largest possible reduction in tax liabilities.
6. Supporting a lifestyle of ultimate luxury.
7. Financing expenditure on lavish entertainment to politicians and officials.
8. Payment of large 'blind' donations to places of worship dedicated to different deities with a view to securing blessing as well as forgiveness in this world and ensuring a safe berth in the next.

Let us for a moment conjure up an alternative scenario. If by a miracle wrought by Divine Will, all this massive amount of black money were retained as white money in account books, the amount of tax payable to government would be enough to wipe out fiscal deficit, to provide substantial funds for much needed poverty alleviation programmes, for education, for clean water, for medical aid, etc., and also for the payment of salaries to government officials at levels which would keep them away from 'need based' corruption.

Now visualize and comprehend the enormity of the damage which has been done to the people of this country by those who have wantonly encouraged businessmen to dupe the public exchequer by surreptitiously converting white and taxable money into black and non-taxable payable slush funds, just to share the loot. How cruelly these leaders have betrayed the poor, innocent, trusting people many, many millions of whom are still living in abysmal poverty 53 years after independence.

This then is the horrifying and alarming picture of India today—seething corruption in every aspect of national life and in every nook and corner of the country. The Supreme Court of India administered a severe warning to the nation about the grave dangers inherent in the present situation when passing an order in a corruption case on 3 February 2000. The Supreme Court stated bluntly that if corruption was not checked effectively at the earliest, 'the socio-economic-political system' might crumble. The Court went on to add: 'Corruption in a civilised 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.' The Court also said: 'Corruption is opposed to democracy and social order, being not only anti-people, but aimed at and targeted against them'.<sup>6</sup>

Is redemption still possible? It has to be. It must be. But the underlying causes of the present state of pervasive corruption among the two categories of persons who hold the ultimate power of governance in the country—the political class comprising the elected representatives of the people and the top bureaucrats, namely members of the IAS, must be identified objectively and stated frankly without hypocrisy or compunction, adhering unwaveringly to the truth, even seemingly brutal truth. Only then would it be possible to conceive and implement, with determination, appropriate and practicable remedial measures.

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4. 'Editorial Comments', *The Asian Age*, 1 July 1998.
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## CHAPTER 8

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### *What then Must India do?*

On the basis of the factual history of the growth of corruption in India, it would not be unfair to conclude that the country would not have been in its present plight if the founding leaders of the new Indian State had devoted personal attention to the generation and sustenance of integrity in the country and more specifically to the prevention of corruption and had, towards that end, established and, firmly as well as consistently, enforced strict ethical codes of conduct for ministers, members of Parliament and state legislatures and others holding any public office.

Since they did not do so, an ever increasing proportion of the top political class succumbed easily to the temptations of power. Furthermore, the poison of corruption, which was initially generated at the top political level, seeped down, in stages, to lower political formations and to the pliant bureaucracy, flooding the whole country.

But this saddening story also provides a ray of hope for the future. If India is one of the most corrupt countries of the world today it certainly is not because the common people of the country are inherently corrupt for the truth is that they are not. In fact, despite their debilitating poverty for centuries, they have been and continue to be genuinely *dharmik* at heart. From time immemorial they have adhered to an unwritten ethical and moral code of conduct. All of them, regardless of their religion, love to watch the television series *Mahabharat* because it touches common ethical cords and inspires them to adhere to the path of truth and righteousness. Furthermore, among members of the political class as well as bureaucracy, holding positions of power and patronage, there are, even now, heartening examples of those who have always adhered firmly to the path of absolute integrity. This means that India still has a sound base and that, in respect of corruption, India has not yet crossed the point of 'no return'.

And yet the reality of the present picture is alarming and the danger it poses to India today and to the coming generations needs to be

fully comprehended. Corruption in India has gone far beyond the mere giving and taking of bribe. The fact is that it has now acquired a wider and far more sinister and lethal connotation. It has defiled and debased the hearts and the minds of most people in positions of power and authority and of many people in business, trade, industry and other professions. There is no anchor, there is no ethical restraint. Nothing is too venal, too crooked, if it serves one's purpose. Funds meant for relief to the poor are being siphoned off by bureaucrats and politicians. And millions and millions of the poor are still living in deplorable conditions—without access to clean drinking water, sanitary facilities, medical aid and education. There are heart-rending instances of the way they live and die. The economic development of the country is being hampered and foreign investment is being discouraged because of predatory corruption. When the chief minister of a large state connives with officials and traders to defraud the government treasury of millions of rupees for private purposes, then the end of civilian administration according to law must be in sight.

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 fulfil 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 life was notoriously corrupt in the eighteenth century' made a 'transition across barely 50 years to a regime of extraordinary public probity'.<sup>1</sup> This was achieved primarily because of the visionary leadership of the liberal party leader W.E. Gladstone, who, first in his capacity as Chancellor of the Exchequer<sup>2</sup> in the 1850s and later as Prime Minister, 4 times during the period 1868–94, initiated a string of reform measures. The purpose of these measures was to abolish practices such as payment for commissions in the army, to define and outlaw corrupt practices by state officials, to introduce competitive examinations 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.<sup>3</sup>

Most importantly, Gladstone secured the adoption by Parliament of the Corrupt and Illegal Practices Act in 1883.

This Act defined electoral corruption more clearly than ever before, outlawing all forms of treating and most variants of gifts or services 'in kind'; it also set tight limits on the amount that could be spent in election contests in individual parliamentary constituencies, and it instituted a stringent system of election returns to independent public officials, and ultimately to the courts, which for the first time took the policing of the system out of the hands of the politicians themselves. Both provisions have remained in force ever since. Indeed, in real terms spending limits have got tighter still: in 1994, the upper limit on constituency election spending was only about £ 5,000 per candidate per constituency (of which there are 651 in the UK).

Incentives for electoral corruption are greatly reduced if the objects on which money can be spent are effectively controlled. In this respect the 1883 Act was an undoubted triumph. As democratic elections became the norm in Britain, two principles became firmly established in the political and public mind: that individual and party spending on elections should be comparatively small scale, and that the state has a duty to restrict election spending tightly in the interests of fair competition.<sup>4</sup>

By taking these measures, Prime Minister Gladstone had successfully accomplished, undoubtedly with the help of his friends and colleagues in the Parliament and government, the task of lifting his country from the abyss of corruption to the pedestal of high integrity on which his country still stands today. The prime minister of India can achieve the same results. He can turn India around.

The task is by no means beyond India's capability. India has several unparalleled assets. As already mentioned in an earlier chapter, it has the world's largest reservoir of top level specialist personnel—scientists, technologists, computer experts, commercial and financial managers, accountants, lawyers, doctors, surgeons, educationists, etc. India stands tall today amongst the advanced industrialized countries of the world and the leaders of business and industry in the country are acknowledged as being equal to the best of their counterparts in other leading industrialized countries. The top echelon of the bureaucracy is still of the highest quality though in need of a radical change in attitude and method of work. With moral and honest leadership at the top, with improved infrastructural facilities and with pragmatic pro-people policies developed with an

unhypocritical attitude, the available human resources of India can still deliver, with consummate efficiency, any programme for national regeneration and development.

Another invaluable asset of India is its free and vibrant press with numerous editors and political commentators comparable to the best in the world. They are the best guardians of people's interests in a democracy and will surely encourage and support any well-conceived programme for national regeneration. Most importantly, India has top class apolitical armed forces guarding its frontiers.

The key quest has to be for honest political leadership at the top. The poison of corruption, as we have noted already, was generated at the top political level and it is at the top political level that the process of cleansing must begin. What India needs most today is a reformed and upright political class. Equally important would be the regeneration of the upper echelons of India's bureaucracy.

With honest top political and bureaucratic leadership in place, it would be possible to move confidently towards an honest polity, a clean administration and an ethics-based society.

In the next chapter we will look at the problems relating to the political class which comprises members of Parliament and state legislatures as well as ministers, the centre and the states. In Chapter 10, we will examine questions pertaining to the top bureaucratic cadre—the Indian Administrative Service. The comments and suggestions relating to this service on the issues of conduct, accountability, transparency, integrity and remuneration should be deemed to apply, mutatis mutandis, to all other services involved in Indian administration, namely the Indian Police Service, the Indian Revenue Service, the Railway Services, the Indian Forest Service, the Central Secretariat Service, judicial cadres in the states, etc. A system needs to be created in which the entire administration is enabled and indeed enjoined by the top political leadership to function with transparency, integrity, efficiency and political impartiality.

Let us then discuss these interrelated problems with a view to finding a possible way ahead.

#### ENDNOTES

1. George Moody-Stuart, *Grand Corruption*, Worldview Publications, Oxford, UK, 1997, p. 57.
2. Donatella Della Porta and Yves Meny (Eds), *Democracy and Corruption in Europe*, Pinter, London and Washington, 1996, p. 105.
3. Drewzy Gavin and Tony Butcher, *The Civil Service Today*, Blackwell, Oxford, UK, 1988, p. 43.
4. Donatella Della Porta and Yves Meny (Eds), op. cit., p. 108.

## **CHAPTER 9**

### *The Corruption of the Political Class and its Possible Reform*

It has been discussed in some of the earlier chapters that the large-scale corruption that exists in the political sector today is largely the result of the failure of the Founding Fathers to establish an effective control mechanism with respect to politicians holding positions of power and influence under the central and state governments, ignoring the warnings of history and Mahatma Gandhi that 'power tended to corrupt', and therefore, necessarily required some specific steps to hold the demon of corruption at bay. That was one part of this disheartening story. There is another aspect of this problem to which we now turn.

In all democratic countries, elected members of national legislatures (and state or provincial legislatures where they exist) as well as ministers of government, who constitute the ruling 'political class,' receive salaries, allowances, etc., for their services and the level of remuneration is determined in each country according to its national policy with regard to remuneration for public service.

Heads of government provide leadership to the government and to the country, coordinate the work of all government ministries and departments and bear ultimate responsibility for the governance of the country. Ministers hold charge of high national responsibilities and their decisions significantly affect the national economy and polity. Members of national legislatures enact laws, and monitor governmental activities through the mechanism of their committees and interpolations. The responsibilities and functions of heads of government, ministers and members of national legislatures are thus extremely important and demanding. It is obviously essential that these political leaders are paid salaries which are commensurate with their exalted responsibilities and the dignity of their political offices. It is also necessary that these salaries should be such as to attract and

retain, in public service, persons of high ability, venerable standing in society and impeccable integrity. Only such people can provide, in the words of Lee Kaun Yew, 'a government which is honest, effective and efficient in protecting its people, and allowing opportunities for all to advance themselves in a stable and orderly society, where they can live a good life and raise their children to do better than themselves'!

Each country lays down its own parameters for the determination of the remuneration to be given to the political rulers of the country. Usually standing committees comprising eminent persons are entrusted with the task of making appropriate recommendations, keeping in view the salaries paid to senior persons in business and industry. The purpose of comparison with the private sector is not to seek an absolute parity but to ensure that there is no large disparity. The salaries, in any case, have to be such as to enable heads of government, ministers and parliamentarians to have a reasonable standard of living which is in consonance with the requirements of the political office they hold. The approach in this regard has to be pragmatic and reasonably liberal in order to ensure that the tempting tendency of power does not succeed in corrupting the political class. For only then can a country expect to have in place a clean, honest, effective and efficient governmental administration.

Let us now look at Table 9.1, which provides data about the emoluments of heads of government in a cross-section of several developed and developing countries. The data in this as well as in Tables 9.2 and 9.3 relate to emoluments paid in 1995. Since then these emoluments have gone up significantly because of three intervening annual reviews. Nevertheless, even as they are, they provide a reliable basis for a comparison between the emoluments paid in foreign countries and those paid in India. Data with regard to India, however, provide information updated up to 1999.

Table 9.1 has been prepared primarily on the basis of comparative data provided in an article in the *Singapore Times* dated 24 February 1996. Figures in relation to Australia, Malaysia and India have been obtained from government reports, newspapers and other reliable sources. The figures giving annual salaries have been divided by 12 to give derived monthly emoluments. With respect to Singapore, the actual monthly salary is smaller than the figure given in the table but taking into account certain additional payments, which are made annually, the figure given is correct. The figures in rupees in the last column of the table have been arrived at by conversion at the rate of Rs 42 to US \$ 1.

Table 9.1 Comparative Statement of the Salary of Head of Government in a Sample of Some Developed and Developing Countries

Name of Country	Salary		
	Salary in US \$ per annum	Salary in US \$ per month	Salary in equivalent Rupees per month
Singapore	812,858	67,738	2,845,003
Japan	395,049	32,921	1,382,672
Germany	320,156	26,680	1,120,546
Switzerland	300,765	25,064	1,052,678
United States	200,000	16,667	700,000
South Africa	150,766	12,564	527,681
Australia	141,242	11,770	494,347
France	136,533	11,378	477,866
Mexico	133,551	11,129	467,429
Britain	129,189	10,766	452,162
Sweden	119,738	9,978	419,083
Canada	98,852	8,238	345,982
Italy	82,655	6,888	289,293
Thailand	54,394	4,533	190,379
Malaysia	50,520	4,210	176,820
Zimbabwe	48,582	4,049	170,037
India	5,000	417	17,500

Source: Based mainly on a report published in the *Singapore Times* dated 24 February 1996.

No reasonable person would dispute the fact that the job of the prime minister of India is one of the most difficult and exacting assignments in the whole world. India is the world's largest democracy with a current population of about 1 billion and an electorate of about 605 million. The responsibilities of the Indian prime minister are immense and of mind-boggling dimensions. If a table were prepared listing, say, 50 or more democratic countries of the world in the order of the complexities of the post of head of government, India would almost certainly find a place among the top few.

What about the emoluments of the Indian prime minister? These are a salary of Rs 4,000 per month, a sumptuary allowance of Rs 1,500, and a daily allowance of Rs 12,000 per month at the rate of Rs 400 per day. This adds up to a total of Rs 17,500 per month which is equivalent to US \$ 417 per month or US \$ 5,000 per annum.

The Indian prime minister gets a free, furnished house but so do other heads of government barring one or two exceptions. He receives an additional constituency allowance of Rs 8,000 per month which is equal to US \$ 190.50 per month. But this sum is meant to cover his monthly expenditure incurred during visits to his sprawling parliamentary constituency, which, on an average has about 1.8 million people.

*A look at the preceding table would show that the emoluments of India's prime minister add up to a mere one-tenth of the emoluments of the prime ministers of Zimbabwe, Malaysia and Thailand!*

Table 9.2 gives a comparative statement of the salary of a cabinet minister in the listed countries.

**Table 9.2 Comparative Statement of the Salary of a Cabinet Minister in a Sample of Some Developed and Developing Countries**

Name of Country	Salary		
	Salary in US \$ per annum	Salary in US \$ per month	Salary in equivalent Rupees per month
Singapore	574,476	47,873	2,010,666
Switzerland	300,765	25,064	1,052,678
Japan	288,312	24,026	1,009,092
Germany	167,038	13,920	584,633
United States	148,400	12,367	519,400
South Africa	115,806	9,651	405,321
Britain	106,845	8,904	373,958
Sweden	101,317	8,443	354,610
Australia	92,481	7,707	323,684
Mexico	90,422	7,535	316,477
Canada	81,723	6,810	286,031
France	72,941	6,078	255,294
Thailand	49,622	4,135	173,677
Italy	45,085	3,757	157,798
Zimbabwe	25,569	2,131	89,492
India	4,857	405	17,000

*Source:* Based mainly on a report published in the *Singapore Times* dated 24 February 1996.

The emoluments of a cabinet minister in India are the same as those of the prime minister except that the sumptuary allowance of

a cabinet minister is Rs 1,000 per month as compared to Rs 1,500 per month for the prime minister. Thus a cabinet minister in India receives a salary of Rs 4,000 per month, a sumptuary allowance of Rs 1,000 per month and a daily allowance of Rs 400 per day or Rs 12,000 per month, adding up to a total remuneration of Rs 17,000 per month. In addition, he gets a free furnished residence. *With respect to the salary paid to cabinet minister too, India finds a place right at the bottom of the table.*

Let us now move on to the salaries of members of Parliament (MPs) or national legislators. These are shown in the comparative Table 9.3.

**Table 9.3 Comparative Statement of the Salary of a Member of National Parliament/Legislature in a Sample of Some Developed and Developing Countries**

Name of Country	Salary		
	Salary in US \$ per annum	Salary in US \$ per month	Salary in equivalent Rupees per month
Japan	235,382	19,615	823,837
Germany	136,503	11,375	477,761
United States	133,600	11,133	467,600
Italy	126,331	10,528	442,159
France	89,639,	7,470	313,737
Britain	68,832	5,736	240,912
Canada	65,793	5,483	230,276
Singapore	65,174	5,431	228,109
Australia	58,550	4,879	204,925
South Africa	52,768	4,397	184,688
Mexico	49,725	4,144	174,038
Switzerland	47,263	3,939	165,421
Thailand	36,740	3,062	128,590
Zimbabwe	11,013	918	38,546
India	4,571	381	16,000

*Source:* Based mainly on a report published in the *Singapore Times* dated 24 February 1996.

Not surprisingly, India figures right at the bottom of the Table 9.3 as well. There are at present 545 members in the Lower House and 250 members in the Upper House of India's Parliament, which

represent 1 billion people. The government of the country is responsible to the Lok Sabha, the Lower House of Parliament and it can continue in office only so long as it has the confidence of that House. Each MP is thus an extremely important political dignitary.

The salary of an MP is Rs 4,000 per month. In addition, he or she receives a daily allowance of Rs 400 for the period spent by him or her in the capital, for attending to the Parliament's business. This daily allowance is not payable during other periods. Thus the emoluments of a member of the Indian Parliament add up to Rs 16,000 per month during part of the year and a reduced basic salary of Rs 4,000 per month for the rest of the year. For purposes of comparing the emoluments paid to Indian legislators with those paid to legislators in other countries, the figure of Rs 16,000 has been used though the average total monthly remuneration would work out to a considerably lower figure.

Even at the assumed rate of Rs 16,000 per month, the salary of an MP in India is

1. less than 42 per cent of the salary of an MP in Zimbabwe;
2. less than 12.5 per cent of the salary of an MP in Thailand;
3. less than 9.5 per cent of the salary of an MP in Mexico; and
4. less than 9 per cent of the salary of an MP in South Africa.

The preceding tables show clearly that the salaries paid to India's prime minister, ministers and MPs are extremely low compared to the salaries paid to their peers in other developing countries. The disparity is likely to be even wider than what is shown. The reason for this is that while the Indian salaries given in the respective tables relate to 1999, the data pertaining to salaries in all other countries show the position as in 1995. These latter salaries would, in most cases, have become higher in 1999 because of three intervening annual reviews thus enlarging the gap between the salaries paid to the Indian ministers and legislators and those paid to their counterparts in all other countries listed in the tables. Furthermore, the Indian emoluments are, in any case, woefully inadequate in themselves for the high positions to which they relate. Can any prime minister or minister or MP say that he or she would be able to cover all the usual household expenses in New Delhi on a gross monthly salary of Rs 17,500 or Rs 16,000? The answer has to be in the negative. Of course, if any holder of these offices has private means, he or she can carry on with a salary of only Re. 1 per month. But what about a poor

person? These political offices in India are not reserved for the rich few. They are and must be open also to the poor. Why is then the remuneration so abysmally low? What has been the policy of India's governmental leaders in this regard? Let us look at this important matter closely.

In India, the emoluments of the ministers and MPs are determined by parliamentary enactments. But legislation on any subject is drafted on the basis of policy decisions taken from time to time by the political leadership of the country. What then has been India's policy on the question of the level of salaries for holders of these high political offices and on the related question of a periodic review and upgradation of these salaries? The answer is that the political leaders of India who have ruled the country since Independence have never asked for any systematic study of this highly important subject.

Nor have any policy announcements ever been made with regard to the principles that should govern the determination and periodic review of the salaries of the prime minister, ministers and MPs so as to provide a basis for parliamentary legislation on the subject. Considering that this matter has a vital bearing on the quality and integrity of the entire governmental administration, any responsible and farsighted leadership of the country would have given it the most careful consideration and evolved some clear and reasonable norms for the determination and periodic review of the emoluments of persons who hold the most important positions in the governing structure of the country. Not so in India. The country's founding leaders have shown an unbelievable lack of concern for such a mundane matter as this. Ad hoc decisions have been made periodically and these have been incorporated in parliamentary statutes.

The manner in which the emoluments of these high dignitaries of the State have been determined from time to time since the early days of Independence until now provides an absorbing story.

The first parliamentary statute on this subject was The Salaries and Allowances of Ministers Act, 1952. By this Act, the salary of the prime minister and also of cabinet ministers was fixed in 1952 at Rs 2,250 per month. Despite a rapidly rising cost of living, especially from 1970 onwards, no change was made in this salary for the next 32 years, that is until 1985. The all-India consumer price index (AICPI) which stood at 104 in 1952 (100 in 1949), had risen by 1985 to 722. If the salary had been adjusted according to this large upward movement of AICPI and the concomitant rise in the cost of basic living, the salary fixed at Rs 2,250 per month in 1952, should have gone up to Rs 15,260 per month by 1985. Thus the salary of

Rs 2,250 per month fixed in 1952 had, in real terms, gone down to less than 15 per cent of its 1952 value. Surely this would have caused severe hardship to honest ministers, certainly to those who did not have any private income of their own. This was the situation in 1985 when the government of the day decided to take a fresh look at the salary of the prime minister and cabinet ministers. After doing so, it came to one of the most hilarious decisions about salaries of prime minister and ministers ever made by any responsible government in the world. The government concluded that there was no reason at all for the prime minister or ministers to receive a monthly salary any higher than the salary of an MP which was then Rs 400 per month. It would of course have been eminently sensible to raise the low salary of an MP to the same level as that of a minister. But that was not done. Instead, by an Act of Parliament passed in 1985, the salary of the prime minister and cabinet ministers was reduced from Rs 2,250 per month to Rs 400 per month, levelling it down to the salary of an MP. The salary of ministers and MPs stood at that level until April 1988 when it was raised to Rs 1,500 per month. A full decade later, that is in 1998, the salary for the prime minister, ministers and MPs was raised to Rs 4,000 per month.

With regard to parliamentarians, The Salaries and Allowances of the Members of Parliament Act, 1954, provided for a salary of Rs 400 per month and a daily allowance of Rs 21 per day during the period of attendance to Parliament's work. The salary of Rs 400 per month was even at that time an extremely poor remuneration for the highest representatives of the people. Even an under secretary to the Government of India was paid a starting salary of Rs 800 per month at that time. Amazingly, no improvement in this remuneration was made during the next 34 years even though the cost of living during this long period had gone up considerably. In 1988, the salary was increased to Rs 1,500 per month and the daily allowance to Rs 200 per day. Once again, for a full decade no further improvement was made. In 1998, the salary was raised to Rs 4,000 per month and the daily allowance to Rs 400 per day.

As we have seen, the total monthly emoluments of the prime minister are Rs 17,500 (US \$ 417 or UK £ 260) and those of cabinet minister Rs 17,000 (US \$ 405 or UK £ 253). The emoluments of an MP add up to Rs 16,000 (US \$ 381 or UK £ 238) per month when the Parliament is in session and they drop to Rs 4,000 (US \$ 95 or UK £ 59) per month when the Parliament is not in session. By any objective standard these emoluments are abysmally low. They are entirely inadequate for covering monthly expenditure even for a modest style of living. And remember please that ministers and MPs

have to maintain 2 households—one in New Delhi and the other in their home town, except MPs who belong to the capital city. What then is the way to cover expenditure? Obviously, either personal wealth or *corruption*. There are ever ready 'friends' among men of business and industry or rich criminals and thugs who become 'under-the-table' supporters of these high dignitaries of State. Also, this situation has been allegedly utilized, on occasion, by the top leadership to secure the unquestioning loyalty and support of chosen MPs by passing on 'packets' of money to them from time to time. The funds for this purpose were taken from black money collected 'under-the-table' in return for permits, quotas and licences. This cosy arrangement may have suited both the giver and the receiver of bribes or 'packets' but it has spread corruption throughout the country.

It is well known that decisions about the salaries of ministers and MPs are taken at the highest political level. What are the considerations that led the decision makers to fix such low salaries for the holders of high political offices? Obviously there was a desire to demonstrate that ministers and MPs were not helping themselves with liberal salaries, which are paid from public funds. Those who made the decisions in this regard knew or should have known the consequences of such an approach—widespread corruption among the political class. What kind of a mindset is it that seeks to create wilfully a mirage of simplicity and integrity before the people of the country while being well aware that the reality is an ocean of corruption? What are the attributes of such a mindset? Clearly they must be *pretension* and *hypocrisy* to beguile the people. But the people are not fooled. Ask any common man in the street what he thinks of politicians and his answer is unlikely to be complimentary.

Lest it be said that India, a poor country, cannot afford to pay higher salaries, it must be emphasized that the country can afford corruption even less. In fact, the total cost of corruption to the country must be several million times more than some higher outlay to secure an honest ruling political class which, as we shall see later, comprises no more than 5203 persons holding the positions of prime minister, chief ministers of states, cabinet ministers, MPs and members of the State Legislative Assemblies (MLAs) in the entire country. Just one example would explain this point. Several thousand crores of rupees are allocated annually by the central and state governments for the construction of new roads and for the maintenance and repair of existing ones. It is commonly recognized that a very large part of this huge sum is misappropriated by corrupt officials and politicians and the roads in many parts of the country continue to remain in very poor condition, hampering the movement of motorized transport

vehicles and, thereby, adversely affecting the pace of economic activity. Can the country afford such a loss year after year? Furthermore, if Zimbabwe, Thailand, Malaysia and Mexico—all developing countries can pay their political dignitaries reasonably well, why not India?

There is no price which is too heavy for ensuring honest and efficient governance of the country. It is corruption which is preventing the success of programmes for the welfare of the people. It is corruption which is criminalizing the politics of the country. Without an honest political class, there can be no fair play in administration, no rule of law and eventually, no liberty. It is thus a strange attitude of mind, which seeks to keep the ministers and MPs impoverished by paying them relatively low and inadequate salaries, thereby compelling them to sell their soul and become corrupt. There is also the point that corrupt politicians are more amenable to top political leadership through 'dossiers' on their hidden corruption, maintained with the help of secret intelligence agencies. While this Machiavellian method may help the top leadership of the day to maintain its stranglehold on the politicians, it damages gravely the administrative fabric of the country.

It can be contended that good salaries are no guarantee for integrity and that those who wish to be corrupt will always be corrupt. Examples can be cited of some of the most highly paid politicians who have been accused of large-scale corruption. Among these are several presidents, prime ministers and ministers of countries in different continents. It is of course entirely true that high salaries do not provide any guarantee of integrity. But appropriate salaries do provide an opportunity to those who wish to be honest, to remain above board. In a number of East Asian countries, the policy of appropriately high salaries has created a demonstrably improved level of integrity in administration. Low and inadequate salaries constitute an open invitation to corruption. Even those who do not want to besmirch their conscience and who want to adhere to absolute integrity, are compelled by sheer need, compulsive family need, to succumb to dishonesty, unless they have private resources of their own. And once they slide into corruption, their return to integrity becomes a virtual impossibility.

In India today, a substantial proportion of the political class has thus become highly corrupted. Criminals and thugs have muscled their way in everywhere. Democratic institutions have become polluted. The present situation of bribery in administration and violence in politics is portrayed graphically in the following two cartoons by R.K. Laxman which appeared in the *Times of India* in the New Delhi edition dated 27 March 1999 and 31 March 1999 respectively.

## YOU SAID IT by Laxman



Thanks, don't get me wrong! I'm honest. I don't keep the bribe for myself. It's used for bribing someone else!

## YOU SAID IT by Laxman



Don't feel bad. If you are in politics in a sovereign democratic republic like ours, this is bound to happen, these days!

The responsibility for the present dismal situation lies firmly on the shoulders of those leaders of the country who, while they had the opportunity and the responsibility, took no interest in establishing a well paid, contented and honest political class, and those who, misusing their position, sought to secure a complete personal grip on the polity of the country by dishonest means. Corrupt India of today is their legacy.

It is now time for the people to raise this issue in order to rid the country of a practice which is causing incalculable harm and which is promoting corruption. There needs to be a public insistence on the prime minister, ministers and MPs, as well as corresponding dignitaries in the states, being paid salaries which are commensurate with their high responsibilities, coupled with an extremely tight new legal regime for preventing corruption and for severe and swift punishment of those who dare to use dishonest means.

Let us look at this matter in some detail. While we are concerned here primarily with the question of the salaries of MPs, the basic issue of palpably inadequate salaries arises equally with respect to MLAs. While MPs are concerned with matters within the jurisdiction of the central government, the MLAs have a corresponding role with regard to matters falling within the responsibilities of the state

governments under the federal constitution of the country. Thus the MPs at the centre and the MLAs in the states together constitute the nation's governing 'political class'. The numbers involved are given in Table 9.4.

These 5,203 elected representatives of 1,000,000,000 people are today responsible for the governance of India. It is this relatively compact group which provides prime ministers, chief ministers and ministers who administer the country on behalf of the people. Their solemn duty must be to govern the country 'for the people' and to subserve the common good. They can, however, do so only if there is an effective system which enables them, and indeed obliges them, to function independently and honestly according to their conscience. The fight against corruption must begin with the creation of that kind of regime. The first element—a legal regime to prevent and punish corruption, has already been mentioned earlier and will be discussed in detail in a later chapter. We should presently go more deeply in the question of the enhancement of the salaries of 'the political class' to reasonable levels.

Skeptics may come up with the argument: 'If you raise the salaries of MPs and MLAs, it will set up a spiral of demands by other segments.' This point has absolutely no validity. First of all these are the top political dignitaries, the holders of the power of governance vested in them by the people of India. There is no other group comparable to them among governmental functionaries. Furthermore, the present salary of an MP is unmentionably low—Rs 4,000 per month. True, a daily allowance of Rs 400 per day is given but this is given only because an MP has to run a second household in New Delhi in addition to the one in his hometown. And the daily allowances ceases as soon as parliamentary business is over. The regular monthly salary of an MP is thus, even today, only Rs. 4000 per month. And that is also the basic monthly salary that the prime minister of India, cabinet ministers receive. Compare this with the basic monthly salaries of the secretary to the Government of India who receives a basic monthly salary of Rs 26,000 and a dean of university who receives a basic monthly income of Rs 22,400.

Some people may point out that the members of the political class are entitled to several benefits, concessions and allowances which are not very 'visible' but which nevertheless add up, in monetary terms, to a considerable amount, and thus constitute quite a large expenditure from the public exchequer. The point to be emphasized here is that these additional benefits are essentially reimbursements of expenditure incurred on specific items such as travel, medical aid, etc.

Table 9.4

<i>National Parliament</i>		<i>No. of Members</i>	
		545	
Lok Sabha		250	
<b>Total</b>		<b>795</b>	
<b>State Legislatures</b>			
<i>State</i>		<i>Members</i>	
		<i>Assembly</i>	<i>Council</i>
1.	Andhra Pradesh	294	-
2.	Arunachal Pradesh	60	-
3.	Assam	126	-
4.	Bihar	324	96
5.	Goa	40	-
6.	Gujarat	182	-
7.	Haryana	90	-
8.	Himachal Pradesh	68	-
9.	Jammu & Kashmir	76	-
10.	Karnataka	224	75
11.	Kerala	140	-
12.	Madhya Pradesh	320	90
13.	Maharashtra	288	78
14.	Manipur	60	-
15.	Meghalaya	60	-
16.	Mizoram	40	-
17.	Nagaland	60	-
18.	Orissa	147	-
19.	Punjab	117	-
20.	Rajasthan	200	-
21.	Sikkim	32	-
22.	Tamil Nadu	234	-
23.	Tripura	60	-
24.	Uttar Pradesh	425	108
25.	West Bengal	294	-
<b>Total Members of State Legislatures</b>		<b>3,961</b>	<b>447</b>
<b>Members of Parliament</b>		<b>795</b>	
<b>Members of State Legislatures</b>		<b>4,408</b>	
<b>Grand Total</b>		<b>5,203</b>	

The amounts thus paid do not constitute any addition to the monthly salary and are not available for expenditure on children's education or clothes or on other household requirements. Viewed in this objective way, the monthly remuneration paid to the members of the political class is awfully inadequate, opening the door for 'unofficial' monetary supplements. Clearly, the case for the payment of a substantially higher remuneration to the members of the political class is entirely incontrovertible.

Let us then examine the financial implications of a considerable increase in the monthly emoluments of each member of the 'political class' of 5,203 persons.

If an additional amount of say Rs 25,000 were paid to each one of them per month, the total additional annual sum would be

$$\text{Rs } 25,000 \times 12 \times 5,203 = \text{Rs } 156.09 \text{ crore.}$$

If the per capita increase were Rs 50,000 per month, the total sum required would increase to

$$\text{Rs } 50,000 \times 12 \times 5,203 = \text{Rs } 312.18 \text{ crore.}$$

Even if the per capita increase were Rs 100,000 per month, the total additional amount required would be

$$\text{Rs } 100,000 \times 12 \times 5,203 = \text{Rs } 624.36 \text{ crore.}$$

These are, quite obviously, insignificant sums in relation to the central government's expenditure budget of Rs 284,003 crore for the financial year 1999-2000. Add to that the expenditure budgets of all the states of the country. It is clear then that with regard to the salaries of MPs and MLAs as well those of the prime minister, chief ministers and ministers, the problem is not money; it is a mindset which is hypocritical in the extreme, and which refuses to see the present problem, much less to seek remedial steps.

The alternatives before the country and the people are:

1. A governing political class which is ill-paid and is, in many cases, highly corrupt and linked to criminals, black money holders, mafia leaders and others of their ilk, and thus unable to provide good government (as is the case today), or
2. an adequately paid political class which is honest and independent and which is thus capable of providing clean, efficient and pro-people governance to the country, and which can be brought into being (i) by an honest approach to the problem of salaries, allowances, travel concessions, medical benefits, etc.,

in a totally transparent manner through the mechanism of an independent standing committee, and (ii) by a firm legal regime for the control and prevention of corruption as well as for the swift and exemplary punishment of those who still indulge in corruption.

It now needs to be stated that with an honest political class, which would mean honest ministers heading the ministries and departments of government, the top bureaucracy which interacts directly with the ministers would also have to be totally honest. No secretary to government can be dishonest if his boss, the minister, is a person of impeccable integrity. If the top bureaucrat were to try any tricks, his minister would see him out of his job very quickly. Thus an honest minister will be able to ensure that the ministry's secretary is honest and an honest secretary will, in these circumstances, do his best to keep the entire ministry above reproach. In this way the nectar of integrity will percolate from the minister downwards and this will begin to transform the administration of the country radically. The functioning of the Parliament will then become far more responsible and dignified, thereby giving a new lustre to India's democracy. That is why the creation of an honest political class has necessarily to be the first step towards the eradication of the scourge of corruption and the strengthening of the democratic process. Without that, the chances of success would be virtually nil.

It is quite probable that those members of the political class who have become accustomed to unbridled corruption, a lifestyle of excessive luxury and a relationship with criminals and thugs, would wish the present regime to continue, regardless of what happens to the country and the people. One must hope that such people will not prevail and that other members of the political class who are still living with honesty, together with the common people will raise their voice in favour of objectivity, sanity and integrity.

There is one more apprehension. The proposal for the payment of higher salaries to ministers, MPs and MLAs may be received by the common people with derisory laughter because, due to their low esteem for politicians (and indeed for bureaucrats as well), they, the people would just not accept the proposition that with better emoluments the people in power would eschew corruption and behave with integrity. For the people, then, the proposal in question would amount to throwing good money after bad. But the incontestable fact is that the present emoluments of the political class are so low that not one of them, except possibly those who are saintly bachelors or maidens, can meet even the most basic expenses of their families and themselves. However, it needs to be repeated, for the sake of clarity and

emphasis, that the suggestion for the payment of adequate salaries, determined by an independent high-level committee, is clearly intertwined with the proposal that simultaneously the political class should be brought under strict vigilance with concomitant arrangements for speedy and severe punishment for those who still engage in corrupt practices. Neither of these proposals would be effective without the other. One would be naive to rely solely on the payment of higher emoluments to ensure integrity and one would be frivolous to believe that vigilance and severe punishment would be effective by themselves in preventing dishonesty. The present situation is admittedly intolerable. The country needs an honest political class for its survival as a genuine democracy and it is essential to adopt measures which will lead to the desired results. The problem has to be dealt with neither with hypocrisy nor with naivete but with hard realism and on the basis of experience gained from other countries. An appeal to the press for support on this issue would be in order. The press can help greatly by encouraging and indeed promoting a favourable public opinion on this sensitive but crucial issue.

#### ENDNOTES

1. Han Fook Kwang, Warren Fernandes and Sumiko Tan, *Lee Kuan Yew—The Man and His Ideas*, Times Editions Private Ltd., Singapore, 1998, p. 380.

### *The Corruption and Decadence of the Indian Administrative Service—India's 'Steel Frame'—and its Possible Regeneration*

The Indian Administrative Service (IAS) was established immediately after the attainment of Independence as a successor to the Indian Civil Service (ICS), which had been constituted by the former British rulers and which had administered India for nearly a 100 years. The ICS was a 'meritocracy' and so is the IAS. It comprises men and women of the highest calibre, selected on the basis of an open all-India competitive examination conducted by an independent body—the Union Public Service Commission. In this way it recruits some of the best brains of the country—the 'creme de la creme'. The new recruits commence their service career in the districts where they come into close contact with the common people and acquire intimate knowledge of their problems and requirements. It is their responsibility to work impartially and find solutions in conformity with the applicable laws, rules and regulations and the policies of the government in power. Gradually as they go up the administrative ladder they begin to work with ministers helping them in the formulating policies. They are also responsible for executing the decisions taken by the ministers. As able and experienced specialists in the art of public administration in a democratic form of government, the members of the IAS provide an essential and irreplaceable complement to the ruling political class—the ministers. Thus the IAS constitutes a pivotal national network described aptly as the 'steel frame' of the country's administration. Furthermore, alongside political leaders, members of the IAS have been and continue to be the principal promoters of both the concept and the reality of the unity of India—a vast country of a billion people with unmatched diversity in respect of language, caste, creed, custom, culture, community and religion.

Clearly the IAS is as indispensable to India's democracy, rule of law and impartial public administration as are its counterparts in the

well established and well run democracies of the West. That is why the integrity, efficiency and political neutrality of the IAS is of vital importance for the good governance of the country in complete accordance with the principles enshrined in its Constitution.

Let me now go back to August 1947 when India became independent and narrate how the IAS has developed since then and explain why during the preceding three decades it has lost its reputation for incorruptibility. Prior to Independence, the ICS had built up a formidable reputation for integrity and efficiency and the expectation was that the IAS would acquire and display the same qualities. Former members of the ICS who had opted to continue in the service of the new Government of India occupied, after Independence, all important administrative positions under the central government as well as in the provinces (as the states were then called). The cabinet secretary and nearly all secretaries to the Government of India, chief secretaries and almost all secretaries to the provincial governments were members of ICS. The standards of work, conduct and integrity of these officers, save a few rare exceptions, were of the highest order. These ICS officers and the newly recruited IAS officers became integral members of a common cadre with one such cadre for each State. All IAS probationers were, for initial 'on the job' training, posted to districts under experienced district magistrates and collectors who also were men of sterling qualities. The IAS officers thus got off to an excellent start. I was one of them and recall, with feelings of abiding gratitude, the care and affection with which District Collectors Harpal Singh, V.C. Shukla and Virendra Vikram Singh arranged for my training in various branches of district administration. They were men of total integrity and were full of warm humanity towards the common people. They worked extremely hard and discharged their important responsibilities with impartiality and decency. They and their peers in various districts provided excellent role models for the new IAS probationers.

Gradually, over the next 2 decades, that is between 1949–69, IAS officers moved into senior positions in the state and central secretariats and worked alongside ICS officers. They all adhered to a common code of behaviour. During this period I worked under the Central Government for most of the time and can say from personal knowledge that right up to 1969, the reputation of ICS and IAS officers for integrity and attitude to work was impeccable. And they all were totally loyal to the government of the country. Thus the new IAS officers were gradually getting inducted into the 'steel frame' of Indian administration and were proving worthy successors to the legendary members of the ICS. Then suddenly a cataclysmic event

took place in the political arena and had a demoralizing effect on the civil service.

In 1969, the Indian National Congress which had been the ruling political party at the centre since Independence, split and the major part began to function under the control and direction of Indira Gandhi. Her functioning as prime minister also underwent a change. She wanted to be totally sure of her complete hold over both the political party and the government machinery. Personal, unquestioning loyalty to her became the determining criterion in deciding the fortunes of key functionaries both in the Congress party and in the bureaucracy. This was a turning point in the history of the civil service because the concept of personal allegiance of permanent civil servants or a group of them to any particular member of the ruling government, even the prime minister, violated the well established principles which govern the functioning of the permanent civil service.

In parliamentary democracies where the mandate of an elected government at the political level is limited to a prescribed term of office, usually 3–5 years, general elections are held at the end of such a term and either the same political party or another political party forms the next government. In this situation it is essential for a permanent mechanism to be in place to run the day-to-day administration of the country on a continuing basis in conformity with the constitution and the laws of the land. In nearly all well established parliamentary democracies this mechanism is the permanent civil service comprising persons who are appointed on the basis of merit determined by a nationwide competitive examination and who are trained to function with absolute integrity, objectivity, impartiality and political neutrality. It is governed, with respect to its conduct, by a Civil Service Code, prescribed by the political government of the country, which clearly lays down the do's and don'ts.

During general elections different political parties with their respective policies and programmes contest elections and the winning party forms the government of the country. It uses the permanent civil service for policy advice as well as for the implementation of its programmes, fully assured of the loyalty of a politically neutral, objective and impartial bureaucracy. It is the common desire of all political parties that the permanent civil service should not be aligned with any particular political party or group nor should any members of the permanent civil service owe allegiance to any particular political leader. In brief, the bureaucracy is expected to be a trustworthy, efficient and honest instrument or agency capable of rendering

objective advice on policy issues and of wholehearted implementation of programmes, unaffected in any way by the political hue of the party forming the government.

In well administered democratic states, the relationship between ministers and civil servants working with them is governed not by any personal allegiance to any individual but by an impersonal code of conduct defining their duties and obligations.

Clearly then, it is the personal responsibility of the head of government of a democratic country to ensure that the permanent civil service, which interacts with the ministers of government in its crucial advisory role on policy matters is enabled and indeed encouraged to function with political neutrality and that permanent secretaries are urged and required to express their views with objectivity and honesty without fear or favour. It is of course well understood that eventually it is the minister who takes the final decision and the permanent secretary is bound to implement it with total loyalty. Towards this end necessary codes of conduct for ministers and for civil servants are promulgated.

In India, the first two prime ministers adhered to and encouraged the practice just described. However, as we have noted earlier,<sup>1</sup> the third Indian Prime Minister, Indira Gandhi, felt differently about the relationship between herself and the bureaucrats. It was well-known that she expected the top civil servants to be loyal to her personally and to implement her ideas and programmes with zeal and commitment. This was at variance with *the concept of a politically neutral civil service, clearly spelt out by Deputy Prime Minister-Vallabhbhai Patel in a letter dated 15 October 1948, addressed to the Constituent Assembly. Here is an excerpt from that letter:*

*The (Civil) Service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum, if not eliminated altogether.<sup>2</sup>*

Prime Minister Indira Gandhi expected and received unquestioning obedience to her orders. During the period of Emergency, Sanjay Gandhi's orders also had to be obeyed in the same manner. No one could question their propriety or legality.

All this created a difficult and unprecedented situation for the members of the civil service. What were they to do? Should the civil servants continue to adhere to their norms, come what may or should they 'become committed', adapt themselves to the new pattern and thereby get on to the high road of success in terms of plum jobs?

What about the members of the ICS who were still around and members of the IAS who had increased their presence in the Central Government in New Delhi by that time? What about the head of the civil service—the cabinet secretary? Did any of them stand up to lodge a protest with the prime minister? Did any one explain to the prime minister personally or by a note that her injunctions with regard to the 'commitment' of the civil servants and her well-known wishes about personal loyalty to her, would destroy the pillars of political neutrality, objectivity and impartiality on which the edifice of a permanent civil service stood? Did any one explain to her that while the civil service would loyally implement her government's programmes, it was not appropriate for them to become committed crusaders for the promotion of her ideas? Did any one tell her that in democracies, governments change from time to time, each having different programmes and invite her attention to the impossibility and unethicallness of civil servants becoming committed personally to the programmes of one party when another might be in power later? Would it be right to expect officials to change their colours every time a new government came to power?

Lest it be said that it is not the role of permanent civil servants to lodge protests with the prime minister of the country, it might be useful to invite attention to the following report which appeared on the front page of *The Times* in London on Monday, 11 May 1998:

**DTI pleads: Don't send us Robinson**  
Nicholas Watt, Political Correspondent

One of Whitehall's most senior civil servants has advised Downing Street against transferring Geoffrey Robinson to the Department of Trade and Industry because of his controversial business past.

Michael Scholar, the Permanent Secretary at the DTI, has made it clear that he does not want the multimillionaire Paymaster General 'anywhere near' his department.

Mr Scholar's view was summed up by a Whitehall source who said: 'Geoffrey Robinson has had a huge array of business interests. You never know what is going to come out next with him.'

Mr Scholar, a former private secretary to Baroness Thatcher, contacted Sir Richard Wilson, the Cabinet Secretary, after reports that the prime minister was planning to switch Mr Robinson from the Treasury to the DTI in the impending reshuffle.

Such an intervention by a permanent secretary is virtually unheard of, since reshuffles are entirely a matter for the prime minister. The action will embarrass Mr Robinson because it suggests that the

most senior civil servant in the department overseeing British industry takes a sceptical view of his approach to business.

Government sources indicated that Mr Blair was planning the transfer to avoid further controversy in the wake of last year's disclosure that Mr Robinson was the discretionary beneficiary of a £ 12 million offshore trust.

Alarmed by the reports, Mr Scholar sent his message to Downing Street. The source said: 'The Permanent Secretary let it be known that he does not want Geoffrey Robinson anywhere near the DTI. He has told colleagues that Mr Robinson would be dangerously exposed in the DTI.'

It will be difficult for Mr Robinson's allies to dismiss Mr Scholar's intervention because he has won immense respect throughout Whitehall during a glittering 28-year civil service career. Mr Scholar, 56, joined the Treasury in 1969 after a brief career as an academic at Harvard and Cambridge. He has served in three government departments and gained experience on business during a secondment to Barclays Bank International in the late 1970s.

But Mr Scholar may face an uncomfortable week after the disclosure of his intervention because Mr Robinson has powerful friends in government, not least the chancellor.

It is understood that Mr Scholar tempered his warning by praising Mr Robinson's work at the Treasury, especially in reaching a deal between the electricity generating companies and the coal industry which involved close cooperation with the DTI.

The permanent secretary has also made clear that he has gone out of his way to praise Lord Simon of Highbury, the former chairman of BP, who faced embarrassment himself last summer over his share dealings.

The Whitehall source said: 'The DTI has a very high regard for Lord Simon. But he is very different from Geoffrey Robinson. Lord Simon joined BP from university and worked his way up to the top of one company.'

Mr Blair is said to be determined to move Mr Robinson in his first ministerial reshuffle, in spite of strong lobbying from the chancellor for him to remain at the treasury. If he is not transferred to the DTI, it has been suggested that he could succeed Gaving Strang as transport minister, with the post being taken out of the Cabinet. Recently Mr Robinson has worked with John Prescott on plans to work with the private sector to attract £ 7 billion to London Underground.

It is worth recording that in the event, Geoffrey Robinson did not get the portfolio of trade and industry. He was appointed instead to another department. Due to an unfortunate incident, he resigned from the cabinet in 1998.

It could perhaps be said with some justification that Michael Scholar had gone beyond the *Lakshman Rekha* for civil servants but clearly he had done so in the national interest and in the certain belief that Prime Minister Tony Blair would not take it amiss. The moral of this story is that when an extremely disturbing situation arises in which the integrity of an established institution of the state is threatened, the person at the helm should feel duty-bound as well as honour-bound to take some initiative to prevent an irreparable damage. The situation in India in the early 1970s with regard to the nature of the working relationship between the head of government and the permanent civil servants at the highest rungs of the bureaucracy was deeply disturbing and had dangerous implications for the fair governance of the country in future. There is no doubt that the secretaries to the Government of India (permanent secretaries) and the cabinet secretary at that time would have felt greatly concerned about this new development, but any protest by them, however discreet, would have enraged the prime minister in that surcharged situation and this could have made matters even worse. Any senior officer demurring at that time would have risked not merely his or her job but even liberty. In these circumstances discretion, understandably, became the better part of valour. Each senior officer had to make his or her own decision as to the manner of his or her functioning. Some decided to become committed and they got along famously with the regime. Others who did not fall in line were left behind. Overall, the bureaucracy as a consequence suffered greatly in stature and in public esteem.

The postulate of 'committed civil service' has since been enthusiastically adopted for implementation by the chief ministers of some states. Each of them is now insisting that IAS officers working under his or her jurisdiction should show complete obedience and loyalty to him or her. But a complicating factor is that chief ministers change from time to time as a result either of general elections or of defections. In this situation, each chief minister secures the allegiance of a group of IAS officers. When in power, the ruling chief minister appoints his or her loyalists to all the important positions. When the chief minister changes, the new chief minister orders mass transfer of all the favourites of his or her predecessor and appoints the officers of his or her group to those positions. This is not some imaginary

scenario. It is enacted time and again in an open and unabashed manner. Caste has become a major factor in the formation of alliances as well as in postings and transfers. Lucrative posts are given to those who promise to oblige the chief minister, his cronies or the heavyweight political bosses of the locality.

The extensive misuse of the power to transfer IAS and IPS officers for the purpose of harassing the inconvenient ones is described in the following report published in the *Hindustan Times* in its New Delhi edition on 9 March 1999:

The average tenure of a district magistrate and a commissioner has come down to 10 months and a year respectively thanks to frequent transfers being ordered by the Kalyan Singh Government in Uttar Pradesh.

Uncertainty prevails among the state bureaucrats in the wake of approaching transfer season. The short tenure of officers also speaks of the growing political interference in their transfer and posting.

The state government continues to violate its own guidelines and transfer policies. Even the deadlines set by the state government for itself are being ignored by the authorities. Under normal circumstances the officers should be posted in a district or a division for at least two years.

The Kalyan Singh Government which boasts of ushering the state into an era of political stability has failed to ensure a normal tenure to the officers. The number of IAS officers transferred by the state government exceeds 300.

More than 320 IAS officers were transferred in the first four months of Ms Mayawati's regime. More than 340 IAS and 380 IPS officers were transferred during the President's rule in 1996-97.

The number of officers transferred during the tenure of Mulayam Singh Yadav as Chief Minister of the State between 1993-95 was 321 for IAS and 394 for IPS officers.

As the district magistrate and the district police chief can make or mar political prospects of a leader, they are shunted out whenever they try to assert themselves.

From the preceding report it is evident that district administration in Uttar Pradesh, India's largest state having a population of more than 100 million people, is in a dismal condition. If district magistrates are transferred every few months, there can be no continuity of any kind in the management of affairs. Some IAS officers who have served as district magistrates in Uttar Pradesh in the recent past, give

a harrowing account of their encounters with the local political bosses. These pompous leaders arrive at the residence of the district magistrate at any odd hour without notice or appointment and demand immediate action in compliance with their wishes. Where the district magistrate can act as asked, he does. But where he finds himself unable to comply because of applicable rules and regulations, he is threatened with dire consequences. Let us take a look at one example. If the district magistrate, who is officially responsible for the proper use of development funds intended for the welfare of the poor, firmly refuses to collaborate with the local political bosses in the latter's endeavours to divert a part of such funds to private pockets, he gets transferred promptly and unceremoniously. Little wonder then that after one or two harassing transfers of this kind the district magistrates give in and join the politicians in corrupt practices. The great pity is that young recruits to the IAS, most of whom are full of idealism and enthusiasm for honest work, get posted to districts for their initial years of service. And they find themselves in a state of turmoil from the very beginning. Functioning as subdivisional magistrates initially or as district magistrates after a few years of service, they are often at loggerheads with local political bullies. They cannot and they do not hold out for long. They soon recognize the wisdom of the good old saying—'if you can't fight them, join them.' That is precisely what they do and that is how they get corrupted at an early stage of their career. That is how during the preceding two decades, the infamous nexus between the politicians and the bureaucrats has developed into a sordid feature of Indian administration.

It is primarily because of continuous political intrusion and harassment that the IAS officers working in the states have, in most cases, ceased to administer according to law. They have had to become local managers on behalf of their political patrons.

Political harassment has, however, not been the sole cause of the degeneration of the IAS. When the concepts of State control of economic activity and the system of permits, quotas and licences were ushered in by the political rulers, the bureaucracy of the country enlarged its powers vastly by creating a massive web of rules and regulations and thereby secured a stranglehold on the entire administrative mechanism. Ostensibly this was done to control the private sector and to ensure honest administration. The actual result was totally different and indeed devastating. The working methods and the processes of decision-making became incomprehensible to the common people. Transparency in the functioning of government offices was lost completely. The control mechanisms were used for

unabashed corrupt practices by politicians as well as by bureaucrats. A large number of inspectors and controllers were appointed by different departments and ministries and each such official became a focal point for bribery. Decision-making slowed down to a snail's pace, causing harassment to all those who had to secure any approval from any government office. This has resulted in the widespread practice of company representatives being stationed in New Delhi and in state capitals for the primary purpose of paying 'speed money' and throwing lavish parties with a view to ensuring that files in government offices moved from one desk to another at a pace faster than usual.

But most serious of all has been the adverse effect on the pace of economic development. In order to avoid individual responsibility and accountability, the bureaucracy has created 'groups' or 'committees' for the consideration of significant matters requiring government approval. These groups or committees meet intermittently and without any sense of urgency. And even after a committee submits its report, the relevant files are sent around for umpteen concurrences because far too many 'layers' of officials are involved in every decision. All this has caused, over the years, serious delays in project implementation as well as huge cost overruns. The bureaucracy has ensured that there is no audit and no accountability for the billions lost due to inaction or delays in decision-making. If there is gross inefficiency in the management of the affairs of the country and if the benefit of development has been denied to millions of India's poor, the blame lies to a considerable extent on the shoulders of bureaucrats. Undoubtedly, there is today too much red tapism, there are innumerable unnecessary rules, regulations, forms and questionnaires and there is an enormously bloated bureaucracy. The political leaders have played no significant role in the creation of this messy administrative situation. If the IAS wanted efficient and streamlined administration, they had the ability and the power to ensure its establishment. The truth is that they have become accustomed to the exercise of authority vested in them by the plethora of rules and regulations. Instead of facilitating and quickening the pace of development, they have hampered it insensitively. Do not blame the politicians solely for all the ills of the country today. The bureaucrats are equally responsible for defiling India's administration.

According to Chandan Mitra, the 'steel frame' of the civil services, which ought to have been the most powerful deterrent to corruption, has steadily become one of the tools of the corrupting process.<sup>3</sup>

This is how Godbole, himself a retired IAS officer and former home secretary, describes the present situation of the IAS:

Today, it is marked by corruption, subservience, venality, misuse of power and position, nepotism, and favouritism. Members of the service often take pride in being identified with one political party or a particular political leader or ruling family, which is against the basic norms governing the civil service. It is not uncommon to find officers flaunting political affiliations, caste and religion to derive maximum benefits from the system. Convictions of several senior officers in addition to severe criticism for non-implementation of the orders of the high courts and the Supreme Court have lowered the image of the civil service and cast doubts on its commitment to uphold the rule of law. In every sense, the civil service has come a long way from the initial euphoria at the time of its creation.<sup>4</sup>

As if all this was not enough for the defilement of the IAS, another factor reared its head in the 1970s, and caused a crack in their integrity. This was the phenomenon of rising prices resulting in a continual fall in the purchasing power of the salaries of IAS officers as indeed of other categories of civil servants. In this situation it became extremely difficult for them to continue to meet the usual family expenses. The 'crack' which was caused first in the early 1970s widened into a big breach in the 1980s and the barrier itself was washed away completely in the early 1990s because of the rapidly widening gap between emoluments and the cost of living.

At my request, this phenomenon was studied by R. Venkatesan, Principal Economist, National Council of Applied Economic Research (NCAER) with the assistance of NCAER's Dr Laveesh Bhandari, Senior Economist, Dr Mihir Pandey, Senior Consultant and Ms G. Ramani (to be referred to hereafter as the Venkatesan team). I wish to record my deep and abiding gratitude to all of them for their kindness in studying this matter and also in giving so much of their time in personal discussion with me. The Venkatesan team has provided the following three graphs, the first of which shows the inexorable upward movement of the all India consumer price index (AICPI) from 1947 onwards; the second brings out clearly the rapidly growing gap between the emoluments of a secretary to the Government of India and the steeply rising prices as shown by the AICPI; and the third shows the widening difference between the emoluments of a secretary to the Government of India and those of chief executive officers in the private sector.

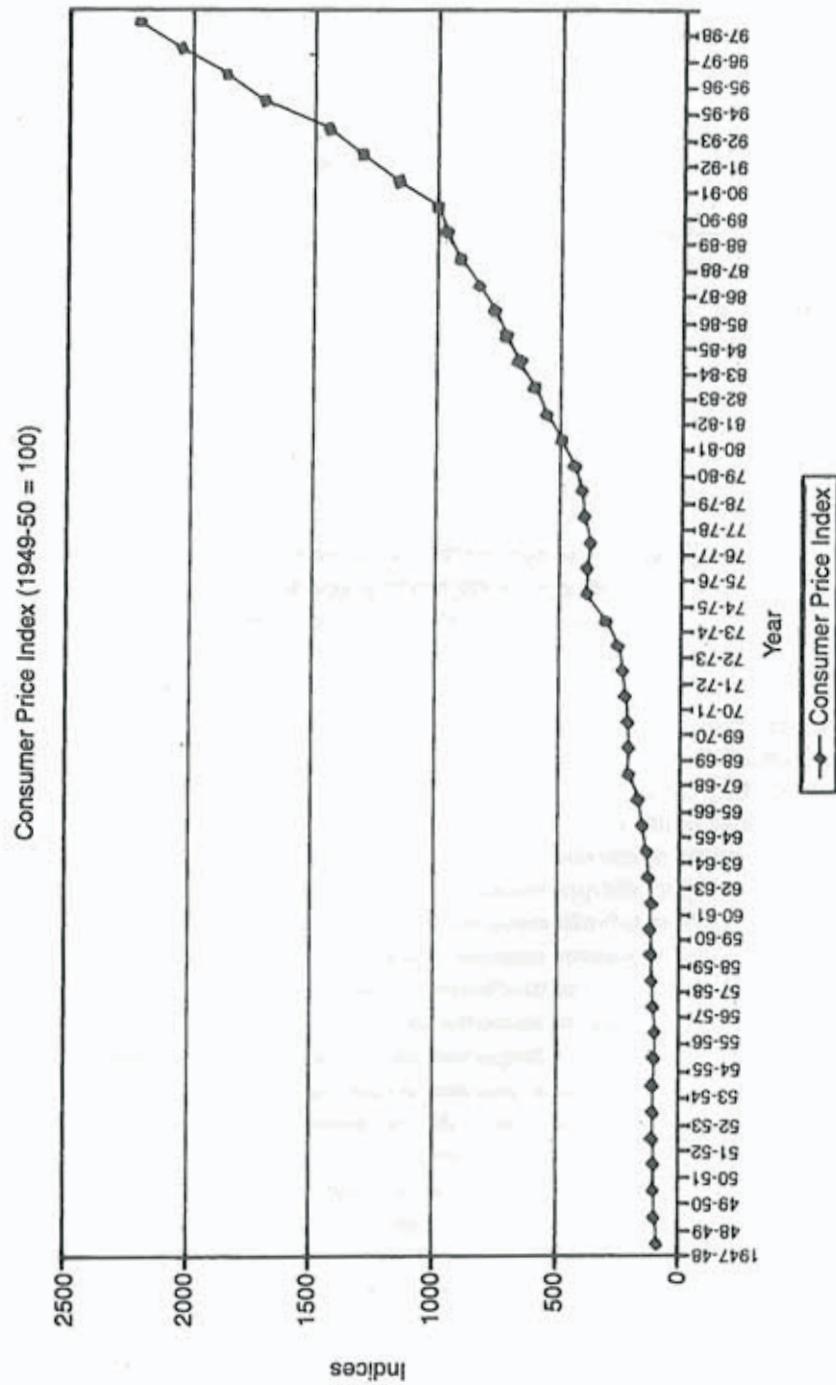


Figure 10.1 Inflation in Post-Independence India: A Historical Overview

Time Series Indices of Emoluments of Secretaries to GOI and All-India Consumer Prices, 1949-98

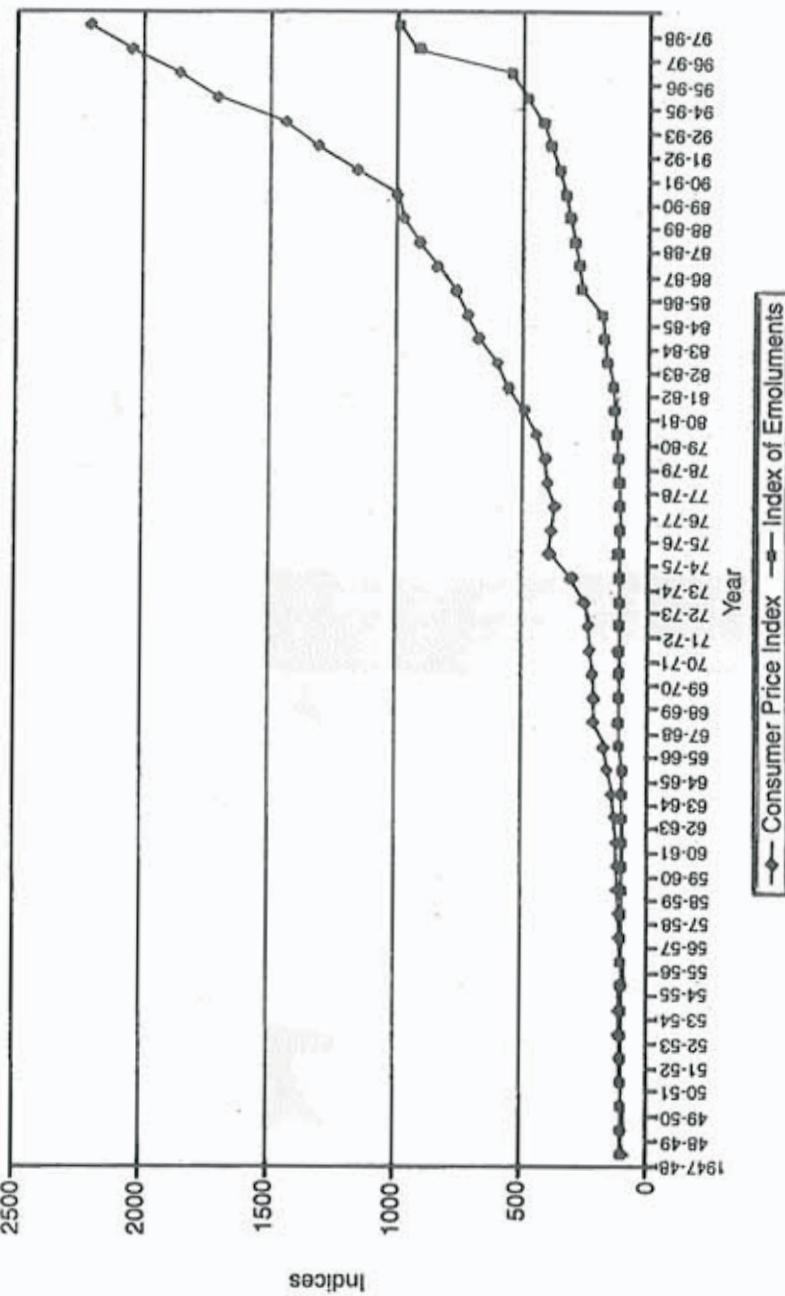
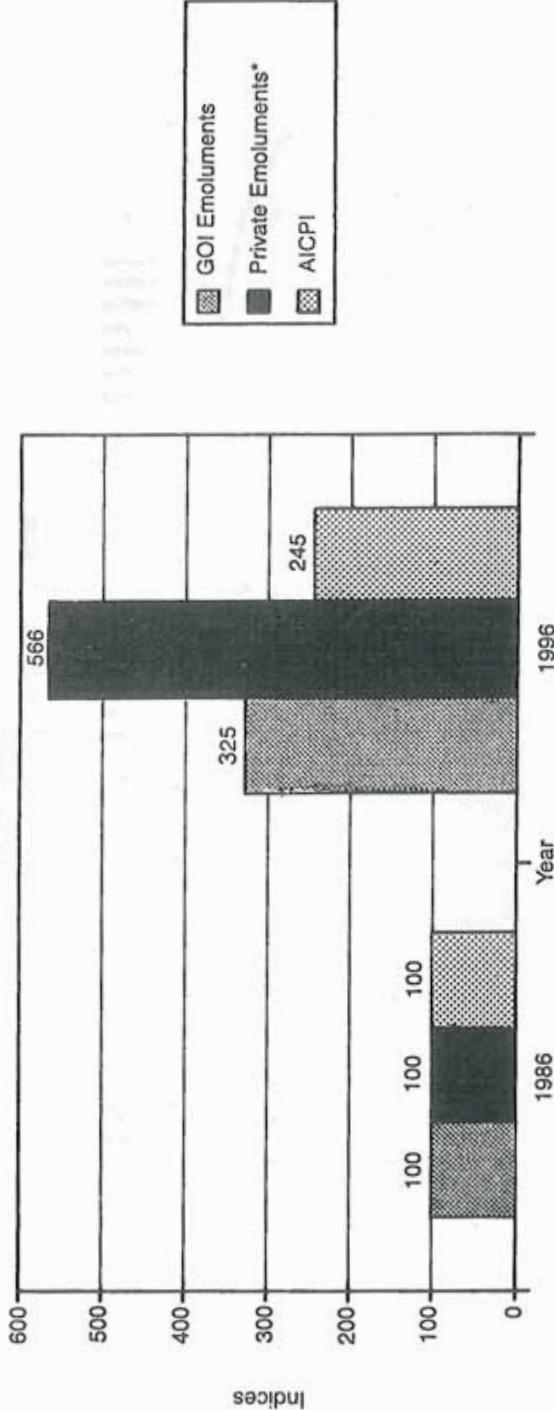


Figure 10.2 Why Real Emoluments Decreased: Price Changes and  
Emoluments of Secretaries to the Government of India

Indices of Emoluments to Secretaries to the GOI, the CEOs of the Private Sector and All-India Consumer Prices



\*Notes

- Emoluments of GOI IAS Secretary Rs 8520 (1986) to Rs 27690 (1996)
- Private emoluments of CEO of a typical Indian business house where the same person occupied the position from 1986 through 1996. (Rs 17400 per month to Rs 98,600 per month)
- CPI—836 (1986) to 2050 (1996)

Figure 10.3 How Real Emoluments have Evolved since 1949

Perhaps the serious erosion in the purchasing power of the salary of a secretary to the Government of India from 1947 up to 1997-98, can be demonstrated more vividly by figures showing the widening gap between the salary actually payable or paid from year to year and the amount which would have been payable if the salary had been adjusted from year to year according to the related AICPI in order to neutralize the effect of inflation. It must be emphasized here that such an adjustment would not have resulted in any increase whatsoever in real earnings. It would have just maintained the same level of purchasing power.

Let us then look at the Table 10.1.

**Table 10.1 Erosion in the Purchasing Power of IAS Secretaries to the Government of India, 1947-48 to 1997-98**

Year	AICPI	<i>IAS Secretary's emoluments</i>			<i>Emoluments of an IAS secretary as adjusted according to AICPI</i>	<i>Difference</i>
		<i>Salary per month</i>	<i>Dearness allowance</i>	<i>Total</i>		
1947-48	87	3,000	0	3,000	3,000	0
1948-49	97	3,000	0	3,000	3,345	-345
1949-50	100	3,000	0	3,000	3,448	-448
1950-51	101	3,000	0	3,000	3,483	-483
1951-52	104	3,000	0	3,000	3,586	-586
1952-53	104	3,000	0	3,000	3,586	-586
1953-54	106	3,000	0	3,000	3,655	-655
1954-55	99	3,000	0	3,000	3,414	-414
1955-56	96	3,000	0	3,000	3,310	-310
1956-57	107	3,000	0	3,000	3,690	-690
1957-58	112	3,000	0	3,000	3,862	-862
1958-59	118	3,000	0	3,000	4,069	-1,069
1959-60	123	3,000	0	3,000	4,241	-1,241
1960-61	124	3,000	0	3,000	4,276	-1,276
1962-63	131	3,000	0	3,000	4,517	-1,517
1963-64	140	3,000	0	3,000	4,828	-1,828
1964-65	160	3,000	0	3,000	5,517	-2,517
1965-66	172	3,500	0	3,500	5,931	-2,431
1967-68	217	3,500	0	3,500	7,483	-3,983
1968-69	216	3,500	0	3,500	7,448	-3,948
1969-70	219	3,500	0	3,500	7,552	-4,052
1970-71	231	3,500	0	3,500	7,966	-4,466

(Contd.)

1971-72	238	3,500	0	3,500	8,207	-4,707
1972-73	257	3,500	0	3,500	8,862	-5,362
1973-74	310	3,500	0	3,500	10,690	-7,190
1974-75	393	3,500	0	3,500	13,552	-10,052
1975-76	388	3,500	0	3,500	13,379	-9,879
1976-77	373	3,500	0	3,500	12,862	-9,362
1977-78	402	3,500	150	3,650	13,862	-10,212
1978-79	410	3,500	300	3,800	14,138	-10,338
1979-80	446	3,500	450	3,950	15,379	-11,429
1980-81	497	3,500	750	4,250	17,138	-12,888
1981-82	559	3,500	900	4,400	19,276	-14,876
1982-83	603	3,500	1,650	5,150	20,793	-15,643
1983-84	678	3,500	2,100	5,600	23,379	17,729
1984-85	722	3,500	2,250	5,750	24,897	-19,147
1985-86	769	8,000	180	8,180	26,517	-18,337
1986-87	836	8,000	520	8,520	28,828	-20,308
1987-88	913	8,000	1,040	9,040	31,483	-22,443
1988-89	975	8,000	1,640	9,640	33,621	-24,581
1989-90	1,000	8,000	2,120	10,120	34,483	-24,363
1990-91	1,163	8,000	2,880	10,880	40,103	-29,223
1991-92	1,320	8,000	4,000	12,000	45,517	-33,517
1992-93	1,446	8,000	4,880	12,880	49,826	-36,982
1994-95	1,711	8,000	6,760	14,760	59,000	-44,240
1995-96	1,864	8,000	8,580	16,580	64,276	-47,696
1996-97	2,050	26,000	1,690	27,690	70,690	-43,000
1997-98	2,220	26,000	4,030	30,030	76,552	-46,522

Since dearness allowance is adjusted every six months, an average figure has been incorporated in the table for the complete financial year.

The figures in the Table 10.1 show the following:

1. The real income of an IAS secretary, when adjusted according a change in AICPI, began to fall from 1948 onward.
2. In 1971-72, the actual salary was Rs 3,500 per month whereas for maintaining at least its purchasing power parity with the salary in 1947 the salary should have been increased to Rs 8,207 per month. Thus in terms of real income, the actual salary paid, Rs 3,500 per month, was 42 per cent of what it should have been. In other words, the real value of the salary had fallen to less than half of what it was in 1947-48.

3. By 1984-85, the total salary of Rs 5,750 per month had become, in real terms, as low as 23 per cent of the salary in 1947-48.
4. On 1 January 1986, the salary was increased to Rs 8,000 per month. On that date, in real terms, even this enhanced salary was only 30.17 per cent of the 1947 salary.
5. On 1 January 1996 the salary was enhanced substantially to Rs 26,000 per month. It was still only 36.78 per cent of the 1947 salary in real terms.

The basket of goods and services covered by the AICPI includes only the very basic necessities of everyday life. It does not take into account the enormous change which has taken place over the years in the consumerist society of the country. The education of children has become a very costly item. Clothes, shoes, music equipment, etc., are expensive today and beyond the reach of honest civil servants. But leave that aside. Even the basic necessities of life cannot be covered by a monthly pay which is rapidly decreasing in real terms. Look at the salary table above again. By 1971-72, the worth of the salary had declined to 42.65 per cent as compared to its 1947 level. What do you think an IAS secretary to the Government of India should have done in the circumstances? He would have had to downgrade his basic standard of living and tighten his belt, as the cliche goes, in order to remain honest. All he could have done was to meet expenditure on running the household in a relatively modest way. There was no question of any saving except what went into the compulsory provident fund. Despite this sharp decline in the purchasing power of the salary, senior IAS officers and indeed all other members of the service had remained honest and above board till then. From then on began a precipitous decline in real monthly income. By 1984-85 it had come down to as little as 23 per cent of the 1947 salary! What then? How could an honest officer survive in that situation? How could he provide for even the most basic needs of his family? How could he pay for the proper education of his children? An impossible situation had arisen. Why did the government of the day not provide adequate relief to their topmost governmental functionary to compensate for the unbearable erosion in his real earnings? The answer to this question was provided in the following observations of the Fifth Central Pay Commission which, it must be emphasized, was presided over by a former Justice of the Supreme Court of India:

*The erosion was a consequence of a deliberate policy followed for a long time under the mistaken impression that impoverishment of the higher bureaucracy was an essential ingredient of a socialistic pattern of society.<sup>5</sup>*

The objective of the government of that time, 1971-72 to 1984-85, to impoverish the higher bureaucracy was achieved with unparalleled success. But with that the government succeeded also in compelling the impoverished bureaucracy to resort to corruption in order to survive. And when high officers in power begin to resort to need-based corruption, they degenerate rapidly into greedy acquisitors of tainted money. Quite a few of them have now become active and enthusiastic partners with politicians in joint ventures to defraud the public exchequer. And once the integrity barrier is broken, there is no depth to which an officer in power will not descend.

It is not difficult now to see how and why a considerable segment of the IAS is regarded as being badly corrupted.

The Fifth Central Pay Commission has given a very courageous report and has shown a new path with regard to the determination of remuneration on a relatively more realistic basis. The new pay scales sanctioned by the Government of India, following the recommendation of the Pay Commission, are substantially higher than those which existed earlier.

An extremely important recommendation made by the Fifth Central Pay Commission is that hereafter any increase in the cost of living indicated by an upward movement in AICPI should be neutralized fully by the grant of an appropriate dearness allowance. This recommendation has been accepted by the Government of India.

All this is excellent and it will prevent any further deterioration in the emoluments of IAS officers and indeed of all other categories of civil servants. The enhanced emoluments now available, with full protection against future inflation, should obviate any compelling 'need' for corruption and those who genuinely wish to function with integrity can do so, perhaps with some forbearance in their standard of living. But there is still no room for any illusion that the new salary arrangements will automatically eliminate corruption all round. Why? Because even the new salary of Rs 26,000 per month for a secretary to the Government of India works out, in real terms, to only 36.78 per cent of the 1947 salary of Rs 3,000 per month. Or, to put it in another way, the salary of Rs 3,000 in 1947 has been increased with effect from 1 January 1996 by a multiple of 8.67 whereas the cost of living as shown by AICPI has increased from 87 in 1947 by a multiple of 21.42 to 1864 in 1996. This is not a theoretical question of attaining the same multiple in salaries as has occurred in AICPI. This is in essence a question of a level of remuneration which will restore the same standard of living as was available in 1947 as also the same possibilities of savings for the future. In the past, a retired

civilian used to have, apart from his pension, enough savings to build a decent house for himself and his family and also a cash surplus for any unforeseeable expenditure. At levels below those of a secretary to the Government of India, the new salaries may represent an increase by a higher multiple than 8.67 but even then the margin available for savings would be small.

It has also to be kept in view that the society generally has a new and more costly style of living. The education of children, medical treatment, recreation and holidays have all become very expensive. Because of new technological developments, homes now have a variety of gadgets which have enhanced the quality of life. If people in the private sector have all the modern amenities, why not those in government? It would be entirely unrealistic, indeed hypocritical, to believe that members of the IAS, comprising some of the best brains of the country, their spouses and their children, would be content to live at a level below that of people working in the private sector.

The fundamental question before the people and the government of the country is this: What should be the quality of persons who should be recruited in the future for government service, especially for the higher civil services, namely the Indian Administrative Service, the Indian Foreign Service, the Indian Police Service, the Indian Revenue Service and the other important cadres? The answer has to be that the quality of future entrants should continue to be the best possible in order to ensure honest and efficient administration and thereby the welfare of all the people. This is essential for the survival of democracy.

Thus there would be in the future the need to attract the best talent and to keep it above corruption. For this the salary scales would, hereafter, have to be comparable to those of similar positions in the private sector. Singapore and other countries in Asia have done this and have, as a consequence, achieved excellent results. Admittedly they have better quality administration and integrity among their officials. In fact, Singapore insists on recruiting brilliant young persons possessing 'helicopter qualities', that is the capability to rise very rapidly to higher positions. What these countries have established is that high quality and honest bureaucracies, the only reliable foundation for the good governance of the country, can be achieved only by providing scales of pay comparable to those in the private sector, and not by 'impoverishing' scales of pay in supposed deference to the requirements of a socialistic pattern of society. Whether socialistic or communistic or capitalistic, all countries need honest and efficient administration to implement their preferred policies

and programmes. *Here is what the Government of Singapore says on this subject:*

The Administrative Service is the premier service in the Civil Service. Administrative Officers shoulder broad managerial responsibilities. They help the political leadership to formulate and implement policies, which affect the lives of all Singaporeans. The Service has to compete for the best talent the country can offer.

Based on the preceding assessment of the crucial role of its administrative service, the Government of Singapore has adopted and implemented the following principles identified by the World Bank in its report entitled *Policy Research—The Asian Miracle: Economic Growth and Public Policy*, published for the World Bank by the Oxford University Press in 1993:

- Recruitment and promotion must be merit based and highly competitive.
- Total compensation, including perks and prestige, must be competitive with the private sector.
- Those who make it to the top should be amply rewarded.

The World Bank Report noted further: 'In bureaucracies, as in nearly everything else, you get what you pay for' . . . 'In general, the more favourably the total public sector compensation package compares to compensation in the private sector, the better the quality of the bureaucracy.' It explicitly cited Singapore: 'Not surprisingly, Singapore, which is widely perceived to have the region's most competent and upright bureaucracy, pays its bureaucrats best.'<sup>6</sup>

In the developed countries, 'fair comparison' with the private sector has been the accepted principle for a long time. Coupled with this is the invariable practice of an automatic annual review of salaries and an appropriate adjustment. This is the only way any government can attract and retain the best talent of the country for running an honest and efficient administration.

One specific example would be useful here. In the United Kingdom, the salaries of top grade civil servants are determined by comparison with the private sector and not by reference to the retail price index (RPI). This will be evident from the fact that whereas the RPI<sup>7</sup> went up from 111 in 1949 to 2224 in 1995—an increase by a multiple of say 20—the salaries of different categories of civil servants have

increased by much larger multiples as shown in the tabular statement below:

Table 10.2 Increase in the Emoluments of  
UK Civil Services, 1947 to 1997

Grade	Band	Salary of civil servants in the United Kingdom						Multiple of increase from 1949-97
		1949	1958	1968	1978	1988	1997	
Permanent Secretary	PS	3,750	6,500	8,600	18,675	65,000	151,500	40.4
Second Secretary	9	3,500	6,000			59,500	113,390	32.4
Third Secretary	8	2,500	4,250	6,300	14,000	45,500	106,980	42.8
Under Secretary	7	2,000	3,400	5,250	12,000	37,000	100,970	50.5
Assistant Secretary	6	1,550	2,700	4,500	11,000	31,844	95,360	61.5
Principal Assistant	5	1,250	2,050	3,107	9,350	28,215	90,500	72.4
Principal	4	750	1,110	1,574	7,450	25,350	85,400	113.8

Source: *Civil Service Yearbook*, HMSO, London, 1949 onwards.

Table 10.2 demonstrates firstly that the salaries of civil servants in the United Kingdom have increased to levels above the increase in the RPI for the corresponding period and further that the rate of increase has escalated sharply during the preceding two decades in keeping with a substantial increase in the standard of living in the British society generally. It must be emphasized that all this improvement has been made possible by a determined and successful effort to downsize the bureaucracy and to introduce more productive methods of work. Quite a lot of functions formerly performed by civil servants in Whitehall have been hived away and transferred to autonomous agencies headed by chief executives who are personally accountable for the decisions and who have almost complete and final authority to manage the affairs of their entities. This is the result of the 'Next Stage' exercise. Within the Secretariat, small accountable groups have been constituted to take final decisions in matters allocated to them, subject to periodic reports to higher officials. By

the adoption of these methods, the United Kingdom Government has effected a substantial reduction in the size of its bureaucracy. Concomitantly, the salaries of civil servants have been enhanced in conformity with the principle of fair comparison with the private sector. In this way, the United Kingdom has ensured an administrative establishment which is efficient and honest and which attracts and retains men and women of the highest calibre.

In India, one of the most formidable tasks facing the government is that of cleansing the IAS, the backbone and the 'steel frame' of the country's administration, and resurrecting it as an honest, efficient, objective, impartial and politically neutral bureaucracy, as it initially was, genuinely dedicated to the service of the people in accordance with the policies of the popularly elected government. For the successful accomplishment of this task, some decisive steps would need to be taken by government as also by the leaders and members of the service, as suggested below:

#### **Steps to be Taken by the Government**

1. Strict adherence to the principle of meritocracy by government of all political parties is cardinal to the establishment of a top quality permanent civil service in any truly democratic administration. This is what ensures good governance. Initial recruitment to the ICS and its successor, the IAS, was based strictly on merit. Latterly, this principle has been breached, admittedly in the interest of social justice and national cohesion, by the reservation of 45 per cent of the total annual recruitment for three specified categories each with its separate share within the total.

It is important to emphasize that all candidates for recruitment to the IAS have to take exactly the same competitive examinations and that only those who secure the highest ranks among the general and reserved categories are eventually selected. Nevertheless, the service now does not get some of the best available 'brains'. This is because although they do better than those selected through the 'reserved' lanes, the former are left out. This is a departure from the principle of meritocracy and it is essential in the interest of good governance that this principle is not diluted any further. It would be reasonable to expect that as improved educational facilities become available to those who belong to the specified categories, the gap in their competitive performance would gradually narrow down and eventually disappear.

In the meantime, persistent efforts need to be made by the Government of India to ensure that, after the successful completion of training at the Lal Bahadur Shastri National Academy of Administration, all new entrants are treated in every way as belonging to just one common stream and that postings and transfers are made without any regard to caste, creed or community. If this is done consciously as a matter of policy, the dent in the image and performance of the service, caused by the policy of reservation would be well contained.

2. The principle of political neutrality of the members of the service, which has unfortunately been severely eroded, causing havoc to the morale, standing, reliability and impartiality of the members of the service, needs to be restored fully with unshakable firmness. In a democracy, different political parties come to power and form governments at different times. All of them, whether they are socialists, communists or capitalists, must feel assured that the permanent civil service will work for them with complete devotion and impartiality. In essence, this means that all the people of the country, regardless of their political affiliation, should have complete faith in the integrity and reliability of the civil service.

Any departure from the principle of strict 'political neutrality' would destroy the very concept of 'good governance' and would eventually destroy democracy itself.

It is disturbing in the extreme that some members in the state legislatures insist on district magistrates being posted and transferred in accordance with their likes and dislikes! If they lose the next election and members of a different political party get elected instead, the district magistrate would have to move again. What happens then to the interests of the common people who require continuity, impartiality and efficiency in administration?

The most serious damage to the governance of the country has been caused in recent years by the blatant politicization of the postings and transfers of senior members of the IAS and the IPS in number of states. There is also a general belief that some important leaders of business and industry are able to influence the appointments to senior positions in the ministries concerned with economic affairs and law enforcing agencies through their political connections in high places. All of this augurs nothing less than total disaster as far as honest and impartial governmental administration is concerned.

The responsibility for managing the affairs of the all India services, especially with regard to postings, transfers and promotions, needs to be restored forthwith to where it properly belongs—the cabinet secretary at the centre and chief secretaries in the states, without any interference whatsoever from the bosses of the political parties or by members of the legislatures at the centre and in the states. There are age-old mechanisms for ensuring that the cabinet secretary obtains the approval of the Appointment Committee of the Cabinet presided over by the prime minister at the centre for all senior postings and transfers. Similarly, the chief secretaries have always functioned, in respect of all such administrative matters, under the control and direction of the chief minister of the state, without any interference from political bosses.

Furthermore, the system of fixed tenures needs to be firmly restored and the spectacle of dozens of IAS and IPS officers being transferred every few months because of the desire of politicians has to be brought to an end.

The administration of the country needs to be run honestly, efficiently and impartially in the interest of all citizens and not in accordance with the whims and fancies of local politicians. Political control over administration is fundamental to democracy but that control has to be exercised by the heads or members of government in accordance with a well tried and well established system. To lay down a clear policy in this regard, it is suggested that the prime minister may convene a meeting with all chief ministers and arrive a concordat which should then be followed all over the country. This is not a party matter at all. It is a national issue requiring national consensus. If this matter is not dealt with urgently and resolutely, the chances of fair and honest administration in the country will fade out.

3. The pace of decision-making has become notoriously slow, primarily because of the desire of the bureaucracy to 'play safe' and to avoid personal responsibility for anything going wrong. There are too many layers through which a file has to move and at every stage a lot of time is taken for 'careful examination'. As there is no audit for damage caused by delay in making decisions and no system for the punishment of those who do not perform, a lackadaisical atmosphere prevails in government ministries and offices. In order to secure decision, men of business and industry are compelled to resort to corrupt practices. Steps have, therefore, to be taken for:

- (i) quickening the pace of decision-making;
- (ii) ensuring accountability by instituting a system of 'performance budgeting' and 'performance appraisal' with respect to all senior officers including secretaries to government and heads of departments;
- (iii) securing maximum possible transparency by the use of modern information technology;
- (iv) eliminating the strangling cobweb of unnecessary rules and regulations; and
- (v) downsizing the bureaucracy as specifically recommended by the Fifth Central Pay Commission.

There is no need at all for another Administrative Reforms Commission. What is required is the personal involvement of the head of government in this exercise. A group of former cabinet secretaries can be entrusted with the task of proposing specific steps for securing the objectives in view. In the United Kingdom, far-reaching improvements in work methods have been secured without any fuss, without setting up any 'commission of enquiry' but just by the efforts of groups of civil servants themselves. Indian civil servants, retired or working, are brilliant and perfectly capable of this kind of exercise. They need to be motivated and they can be motivated by the prime minister. On such an exercise and requisite follow-up action depends the possible re-creation of an honest, efficient and effective bureaucracy, capable of providing incorruptible and impartial administration to the country, thereby accelerating the pace of economic development and relief to the poor. Without such a development, Indian democracy would be at risk and so would individual liberty and the rule of law.

It is, therefore, suggested that the prime minister may consider appointing a committee comprising three former cabinet secretaries for this vital task.

4. Combating corruption in the IAS is another high priority item. While the main effort in this regard will have to be made by the leaders and members of the service themselves, the government of the country has to make the exercise of corrupt practices by an IAS officer a high-risk and financially ruinous proposition, once the guilt is established after due process of law. Delay in dealing with corruption cases often results in the loss of documents and defection of witnesses. It is, therefore, necessary that special courts

staffed by serving and/or retired High Court judges are established to deal with cases involving members of all-India services on day-to-day basis until completion of proceedings. Deterrent punishments should be inflicted on those found guilty, and ill-gotten wealth, including that held under benami arrangements should be confiscated.

5. A revised and stronger code of conduct for the all-India services needs to be formulated and promulgated. The members of these services should be enjoined, *inter alia*, to perform their duties solely in the public interest, with total loyalty to the Constitution and laws of the country and with unfailing adherence to general ethical principles. They should be required to function with complete loyalty to the government elected by the people and not to any particular individual. At the same time they should have the right and the duty to express their views objectively on the merits of each issue. They should then wholeheartedly implement the written decision of the minister. However, where the civil servant is asked to do something, which he sincerely believes to be detrimental to public interest, he should have the right to refer the matter to an independent authority appointed by the prime minister at the centre and by the respective chief ministers in the states for this purpose. This will ensure that neither the civil servant nor the minister will be able to get away with anything unethical or against the public interest. Similar provisions are included in codes of conduct in other democratic countries and there is no reason why they should not be promulgated in India for promoting integrity in governmental decision-making and for safeguarding public interest.

We have to remember that integrity in governance can be assured only by appropriate systems being in place and by their strict observance.

#### **Steps to be Taken by the Leaders and Members of the Indian Administrative Service**

1. The leaders and members of the IAS need to do a lot of introspection in order to ascertain for themselves the reasons why they have lost the trust and esteem of the people of the country and why the epithets which were earlier used to describe politicians are now widely being used for bureaucrats also. They have to ask themselves why India's bureaucracy which was once famed for

its efficiency, objectivity and integrity in the whole world is now rated as being one of the worst in Asia, let alone the world. There would be few examples of a more precipitous fall. One of the present day leaders of Indian journalism, Shekhar Gupta, Editor-in-Chief of the *Indian Express* made the following comments about the all-India services in a signed article in the *Indian Express* dated 29 January 2000:

Pause for a moment and think who are the brightest, most honest and the most hard working among your circle of friends, or old classmates, and chances are you may still find a majority of them in the all-India services. How come, then, that they collectively give us such an inefficient and rotten system of governance? Why?

The answer evidently is that far too many members of the service have made far too many compromises with their conscience. Instead of resisting 'politicization' and temptations, far too many have succumbed too easily. Too many in senior positions have decided to play it safe and take it easy. That is why there is lousy governance. But all is not lost yet. There are still many, especially among the young members of the service, who are honest, who want to serve their country, who are fired by idealism and patriotism. What is needed is a major attitudinal change especially on the part of the senior members of the Service. Power to administer the affairs of the country from the village in a district to the cabinet secretariat in New Delhi is vested in the IAS. This power needs to be exercised to provide honest, efficient, transparent and accountable administration to the people. There is no other entity in the country that has the same power and the same responsibility to carry relief to the poor millions of the country. The members of the service can change the face of India by placing the interests of the people on the top of their agenda. They need to remind themselves constantly that in a democracy the people are the masters. It is not without reason or purpose that the British Prime Minister, Mr Tony Blair, keeps surging his ministers, MPs and civil servants never to forget that they are only 'servants' and that the people are their masters. It would also be good to recall the famous words of President Kennedy in his inaugural address, when he urged: 'So fellow Americans, ask not what your country can do for you. Ask what you can do for your country.' It would not be fair to ask all Indians to follow that patriotic advice because many millions of them are

still very poor and have every right to ask first what the government of the country intends to do for them. But surely the members of the IAS who occupy such an exalted position in Indian society and polity, can ask themselves repeatedly what they can do for India. If the question is asked with humility and sincerity, the right answers will come gushing forth. And this will bring about a genuine attitudinal change, which will be a precursor to persistent and dynamic efforts to serve the people with a sense of mission.

2. Cleansing the service of prevailing corruption among its members is by far the most urgent and the most important task for the leaders of the IAS and for all its members. It is a matter of the deepest regret that a large number of IAS officers are presently facing corruption charges. If members of the top bureaucracy of the country—the IAS, which was established to provide honest and efficient administration throughout the country, are themselves besmirched in corruption, a chaotic situation would arise as indeed has already happened in several states of the country.

As we have noted in the earlier part of this chapter, the IAS was corruption-free until the late 1960s and early 1970s. Thereafter 2 factors intervened which resulted in the emergence of corruption among the bureaucrats. The first was the politicization of the members of the IAS in furtherance of the 'license-permit-quota raj', resulting in the infamous *neta-babu* nexus for the collection of 'black' money from the men of business and industry. The second was the unbearable decline in the purchasing power of the salaries consequent upon rapid rise in the rate of inflation.

Today, a new situation has emerged. With the liberalization of the economy and the dismantling of many rules and regulations, the 'license-permit-quota raj' has largely disappeared. And as a result of the implementation of the Fifth Central Pay Commission recommendation, salary levels have been raised substantially with full protection against any further erosion of purchasing power. Most importantly for the future, the Fifth Central Pay Commission has recognized the principle of 'fair comparison' with emoluments in the private sector as a basis for the determination of remuneration in the governmental sector. No IAS officer can now legitimately contend that his emoluments are still inadequate for meeting the basic necessities of life and for maintaining a reasonable, if restrained, standard of living.

These happy developments provide a historic opportunity for the leaders of the IAS namely the cabinet secretary and the chief

secretaries, to launch a visible movement for promoting absolute integrity among all IAS officers. For this purpose, the cabinet secretary may convene a meeting with all chief secretaries to draw up a plan of action, including discreet but effective arrangements for vigilance. The implementation of such a plan can be monitored continuously by the use of modern communications.

This historic opportunity must not be lost and it must be used to bring back integrity—total integrity—among all IAS officers in the situation created by an unbelievably visionary report of the Fifth Pay Commission and the equally bold decision of the Government.

There is no doubt that any steps taken by the cabinet secretary and the chief secretaries in this regard would be strongly supported by many members of the IAS.

3. One of the most important administrative matters facing the government is that of 'downsizing' the bureaucracy. The financial burden on the public exchequer will become intolerable with the recommendations of the Fifth Central Pay Commission, unless the present members are reduced substantially. Moreover, any further improvement in the emoluments based on the principle of 'fair comparison' with the private sector, where salaries may well rise with the expected boom in the economy, will be impossible without substantial downsizing. Time is now propitious for effective action towards this end. With the dismantling of the 'license-permit-quota raj' and the liberalization of the economy, many functions, which were formerly performed by the bureaucracy, have disappeared. This process is continuing and is, in fact, being accelerated. Furthermore, a substantial reduction in the number of bureaucrats will result in the elimination of unnecessary 'layers', thereby accelerating the pace of decision making. This will undoubtedly enhance efficiency and increase individual accountability. For all these reasons this is an appropriate time for cutting down the size of the bureaucracy. Towards this end, the Fifth Pay Commission has made detailed and specific recommendations for 'Optimising the Size of Governmental Machinery' in Section IV of Part II in Volume I of its Report.<sup>8</sup> The Commission has envisaged an across-the-board cut of 30 per cent in the size of the bureaucracy within a time frame of 10 years, and to achieve this objective it has proposed a well-considered strategy comprising a freeze on recruitment in respect of certain supporting and auxiliary categories, statutory control on

the creation of new posts, abolition of existing vacant posts, voluntary or compulsory retirement and incentives for 'right-sizing'. On the basis of its recommendations, the Commission has recorded the following conclusion: 'It is our firm belief that if an atmosphere for right-sizing is created right from the top, very soon we can achieve the optimum size of the Government machinery'.

That the present Central Government is keen on downsizing the bureaucracy is evident from the observations made in this regard by Finance Minister Yashwant Sinha on 27 February 1999, when he presented the Budget for 1999-2000 to the Lok Sabha. As a token of his intentions, he declared that the Central Government had decided to abolish 4 secretary-level posts. He announced also the proposed appointment of an Expenditure Reforms Commission. Clearly, time has now come for a genuine and determined effort to downsize the Indian bureaucracy.

With regard to this matter, the leaders and members of the IAS need to give full and enthusiastic support to the government. A reasonable reduction in the size of the IAS and other services, effected progressively over the next 10 years, could also be proposed. This will be welcomed by the people as an indication of the IAS officers' willingness to participate actively in the 'downsizing' exercise in the larger interests of the country.

4. When a substantial reduction in the size of the bureaucracy is well under way, it would be necessary to consider the adoption of a new long-term policy for the determination of remuneration in the governmental sector and for an annual review of such remuneration. There is no doubt at all that if the problem is viewed without hypocrisy and with realism, and if the absolute necessity of attracting the best brains of the country to the all-India services and other cadres for providing 'good governance' is recognized, a new policy based on 'fair comparison' with the private sector would need to be adopted. There is no reason to believe that the employees of the governmental sector would not wish to provide good education to their children, a decent lifestyle to their families, appropriate medical aid to family members who fall ill, have prospects of a reasonably comfortable retirement for themselves, etc., in the same manner as their counterparts in the private sector are able to. Remuneration in the government sector would, therefore, have to be determined on the principle of 'fair comparison' as indeed is being done in all well established

democracies. That is the only way to ensure an honest bureaucracy and a clean administration.

Proposals for the appointment of a standing committee to establish and to review annually the salaries in the governmental sector, based on the principle of 'fair comparison', would need to be presented to the Government of the country by the leaders of the bureaucracy at the appropriate time.

It is very heartening to know from the following report which appeared in the New Delhi edition of *The Observer* dated 10 February 2000, that the cabinet secretary has already initiated specific steps to downsize the bureaucracy:

The bureaucracy is finally showing the will to cut itself to size. And the bold initiative in this direction has come from the chief of civil services. Cabinet Secretary Prabhat Kumar has asked all secretaries of ministries and departments to submit a time-bound scheme to implement a five-step package to downsize the government by June 2000.

Sources in the Department of Administrative Reforms told this newspaper that Mr Kumar had asked all secretaries to submit an action plan on the package by February 15.

Sources quoted Mr Kumar as saying, 'It is being increasingly felt that the overgrown size of the bureaucracy is having an adverse impact on its efficacy. There is no denying the fact that pruning of bureaucracy is required not only for curtailing establishment expenditure, but also for improving efficiency of the system.'

The five-step package is derived from the recommendations of a core group of officers on downsizing the government. The group was formed under the chairmanship of secretary (coordination), Cabinet Secretariat, keeping in view the report of the Fifth Pay Commission, which had recommended a 30 per cent cut in government rolls.

The core group's recommendations, which are to be implemented by mid-2000 include:

- Sanctioned strength as on 1 January 1992 of each category of posts should be reduced by 10 per cent in every ministry/department and their appendages. An additional 10 per cent cut in the number of posts created between January 1992 and December 1999 should also be carried out;

- A review of all posts lying vacant in every ministry/department and its attached and subordinate offices should be carried out immediately in accordance with the post-budget guidelines issued by the Department of Expenditure in August 1999;
- A review of all temporary posts should be undertaken immediately to discontinue them with effect from 28 February 2000;
- Reports of Staff Inspection Unit (SIU) accepted by the ministries/departments and their attached and subordinate offices should be implemented within a specified time-frame not extended beyond June 2000;
- Desk officer system may be introduced in identified areas dealing largely with routine papers not needing much in-depth analysis and permanent memory.

The Fifth Pay Commission, in its report submitted in 1997, had spelt out a detailed programme to reform the government to ensure that mammoth government machinery acts as a catalyst of liberalisation process rather than a hurdle.

According to reforms analysts, the regulatory functions of several economic departments such as Department of Electronics, Department of Industrial Development and Directorate General of Foreign Trade have been reduced drastically over the years.

The chief secretaries in the states will, hopefully, take similar action in their respective jurisdictions.

5. At the commencement of this new millennium, India is virtually going through a non-violent revolution both in respect of its economy as well as its polity. With accelerated liberalization and a 'receding' state, the corporate sector is taking off and new entrepreneurs like Mr Narayan Murthy are emerging and taking up commanding positions. They are 'global' in outlook and practice and are also wedded to absolute integrity. The role of the IAS in the new economic scenario is that of a 'facilitator' and no longer that of a 'controller' as in the past. This requires a totally new mindset. India's top bureaucracy will now have to function like the Japanese bureaucracy which has always been and continues to be most anxious to help business and industrial enterprises in pushing the Japanese economy forward.

With respect to the polity too, a major change is in the offing and the members of the IAS have to become active 'agents' of this change. Power has to devolve to peoples' representatives even

at the village and district levels. People everywhere are demanding transparent, efficient and honest administration. The Chief Minister of Andhra Pradesh, Mr Chandrababu Naidu, has demonstrated so effectively how this can be done. In Andhra Pradesh, IAS officers are now continually accountable for their day to day activity. Gone are the days of 'big boss' mentality. In dealing with the problems of general administration, members of the IAS have to function as 'servants' of the people, in a fair, transparent and honest manner. Once again, all this shows the imperative and urgent need of a new mindset, which displays humility, dignity and national pride at the same time.

What the country needs is a united effort by all IAS officers to serve the people with determination. Such an effort cannot be postponed. The country is beset today with dishonesty, fraud and criminality in every aspect of national life and it is sliding inexorably towards the point of no return. At this critical juncture, the members of the IAS, who hold almost every position of power and control throughout the country, from the districts in the states to the cabinet secretariat in New Delhi, and who are so strategically placed, have the historic opportunity and inalienable responsibility to make a break from the past, to cleanse their globally-renowned service and to rid the country of inefficiency, wastefulness and corruption. In this way they can ensure that those millions of our countrymen who, even after 53 years of Independence, are still living in abject poverty without access to clean drinking water, two square meals a day, primary education, elementary medical aid—the barest basic necessities of life, are now provided the long overdue relief by the honest use of all available development resources. If the members of the IAS ponder for a while and take cognisance of the opportunity, the ability and the awesome responsibility they have, they can still save the country from falling over the precipice where it is so precariously perched at present. If all 5,067 IAS officers decide to use their enormous powers to fight corruption in an unyielding manner, and to run governmental administration honestly, efficiently and transparently, they will achieve amazing success.

If the cabinet secretary at the centre and the chief secretaries in the states were to assume personal responsibility for promoting, among all IAS officers working within their respective jurisdiction, a new culture of absolute integrity coupled with a positive, helpful,

determined and compassionate approach to work in a spirit of service to the people, India can still be turned around. This statement is not simplistic. It is based on a realistic assessment of the crucial and determining role of the indispensable IAS—the ‘steel frame’—in Indian administration.

To substantiate the truth and strength of what I have just stated, I wish to narrate a recent heartening experience. During a visit to Pune, Maharashtra, in April 1999, I met the District Collector, Mr Vijay Kumar Gautam, an officer of the IAS. Since the problem of corruption in administration was uppermost in my mind, we started talking about this subject. I asked him about the situation in his district which has a population of about 5.5 million. Gautam’s response showed that besides being an officer of exceptionally outstanding abilities, he was genuinely dedicated, with total sincerity and integrity, to the service of the people in his charge. Gautam observed that government offices had become ‘black boxes’ and the people who had to interact with these offices had no information at all as to how they functioned. They had to run from one official to another without any result. In this situation, ‘agents’ who offered their help for a ‘consideration’ cropped up. That is how corruption had gripped the entire governmental machinery. Gautam was firmly of the view that to fight corruption, the functioning of government offices, except with regard to sensitive matters, would have to be made completely transparent and the people would have to be empowered with clear information as to how, where and when they could secure the help they needed. Gautam then brought out his ‘laptop’ and demonstrated the computerized scheme which he had evolved and which he was implementing with notable success. People in his district now know how to get the information or the documents or any other help they need and they are assured of reasonably prompt and time-bound response. Gautam is thus truly creating a pro-people administration and is giving meaning and content to the concept of ‘government for the people’.

Here is a gist of Gautam’s visionary plan in his own words:

#### **Single Window Facilitation Centre— A Citizen’s Charter Exercise in Pune District**

Any government office, today, can be easily recognized with large number of people moving in the premises, surrounding the tables inside the office or waiting to meet the senior officer. It is needless to emphasize that the most common experience of approaching a

government office is of extreme frustration and total dissatisfaction. The shortcomings and failures in the delivery system of governmental services have carved out an image of the government organization with following characteristics:

'Speed Money is essential', 'Single visit will hardly suffice', 'You must find an agent', 'Sahab is on tour is the common reply', 'System is insensitive'.

I must confess that a conscientious administrator cannot be comfortable with the above perception. As the Collector of Sindhudurg district, the smallest and the most beautiful district of Maharashtra, I initiated a small exercise of understanding the needs of people visiting the *tahasil*, SDO or collector's office. A six-month exercise revealed that over 90 per cent people made frequent visits pursuing routine matters, e.g. getting copies of land records, obtaining caste certificate, ration card or some statutory permission/license. The study also revealed that people did not know *whom to approach, what is the procedure, why certain papers are required, how much time will it take?* It was also observed that lack of standardization and the absence of the concept of 'response time' created bottlenecks in the smooth functioning of the delivery system. As a result, different employees presented different set of requirements for the same work or sometimes the same employee presented different requirement from different people for the same work. Consequently, the system functioned as 'black box' with no transparency and, therefore, no accountability of any kind.

We decided to adopt the strategy to 'PULL' the system, without suggesting any large administrative reforms of policy change nature. PULL meant—Put people first, Understand statutory provisions well, Leave unnecessary steps, Lower administrative costs (time, energy, money). As a result, the concept of a citizen's charter emerged and the operational requirement led to establishing Single Window Facilitation Centre at the office of the Collector, SDO and *Tahasil*.

In Pune district, we have incorporated 82 activities related to various permissions/licences in our Citizen's Charter. The computerized single window centre has started in the collectorate since 6 October 1998. The single window integrates following steps: We guide people on procedures, we scrutinize the applications at the counter, we give an acknowledgement with a specific date of disposal for accepted applications, we return the incomplete references with written

scrutiny sheet, we analyse the reasons of return weekly as a feedback to modify our procedures if required, we monitor compliances to given dates continuously and we display our pendency chart for people's audit. The same system works in each of the 14 *tahasils* and 5 SDO offices manually at present. At the district level, we have started a touch screen monitor where a citizen can retrieve information and find out the status of his application without being dependent on either a government employee or any private person. We are now planning to include NGOs, STD booths and other agencies who can be linked with us for information dissemination exercise. We also plan to computerize the *tahasil* and SDO offices with connectivity to district to create responsive administration information network for Pune District which will also include development schemes, land records and socio-economic database of the district.

The ultimate objective is to launch a People's Empowerment Programme by introducing transparency and accountability in the functioning of public delivery system through a well spelled out citizen's charter and an independent information dissemination system. The exercise in Pune has been very encouraging with instances of semi-literates asking for acknowledgements in the rural areas. A strong minority that thrived on the non-transparency of procedures do criticise the exercise for obvious reasons. I firmly believe that it is only by empowering the people, and not by solving the problems of few who approach us nor by creating an individual image of saviour and *mai-baap* administrator, that the growing strength of corruption as accepted mode could be demolished. Individuals will come and go, the system should keep delivering with same response. In Independent India, our job is also to create citizens who understand their problems in their own terms and believe in their capacity to act and not to encourage clients who are dependent on their leaders and helpers for their problems and who only understand themselves in terms of their deficiencies. We must remember, good clients make bad citizens and good citizens make strong communities.

What Gautam is doing in Punc, Maharashtra, is already happening in several other states such as Andhra Pradesh and Karnataka as well. With that kind of idealism, integrity, determination, love for the country and respect for the people, these bright, young IAS officers together with their senior colleagues in the secretariats of the states and the centre can combat corruption and recreate integrity in government.

I would now like to refer to an admirable initiative taken by the Chief Secretary of the Government of Uttar Pradesh, Yogendra Narain,

who has written to all heads of departments, inviting and urging them to think and act 'innovatively' improving the quality of administration and securing 'good governance'. Here is the text of his letter which was sent out on 27 November 1999:

As professionals in the field of administration it is necessary that we initiate changes to ensure good governance for the citizens of the State. It is necessary, therefore, to take a review of the working of each department and also to revise procedures to live up to the expectations of the citizens. This means a thorough review at your level of the working procedures of your field organizations and at all cutting edge levels of administration, i.e. where the citizen has an interface with the administration. In my view one general feature of good governance is continuous innovation in administration and weeding out of old cumbersome procedures to be replaced by fresh dynamic ideas. You should also take advantage of the Policy Making Cell of your department for this purpose from time to time. The 'I' in the IAS should not only stand for 'Indian' but also for 'Innovation'. We have to think de novo. We have to administer de novo. In this context, I would also like you to let me know at least five essential principles which you think, constitute good governance. You may serialize them and then also let me know whether you think your departmental procedures conform in substantial measure to these principles. This should be a frank introspection and wherever you feel frankly that your departmental working is not meeting these norms of good governance, then I would also like to know from you what changes you would like to suggest which could bring about the requisite transformation of the administrative culture. I would like your suggestions and reply to this letter by 15 December 1999.

Another endeavour worth applauding is the open determination of many members of the IAS cadre of UP to identify, by a secret ballot, the most corrupt among them. This has demonstrated to the country that IAS officers themselves are deeply concerned about this serious problem in the Service and are anxious to expose it as a step towards rectification.

Finally, it is very heartening that members of the 1948 batch of the IAS who participated in a retreat convened on 18-19 June 1998 at the Lal Bahadur Shastri National Academy of Administration, Mussoorie, by the Director of the Academy, B.S. Baswan, debated the current challenges before the IAS and adopted the following comprehensive declaration, calling upon the members of the Service to

face boldly the present day problems and to reorient themselves so as to become the country's 'Agents of Change' for a better future:

We, the first batch of the IAS, feel privileged to have helped in the task of nation building in the post-Independence years. The Service, however, requires to reorient itself to meet the newer challenges emerging now. In an environment of liberalization and deregulation of the economy and decentralisation of administration, the role of the Service as an 'Agent of Change' needs to be reinforced.

The Service has always stood for the high ideals of integrity and professionalism, public service and duty to the nation. This tradition will be continued to contribute in a large measure towards a self-reliant India of prosperity and harmony with a new agenda. Of the manifold challenges before the Service today, the three areas which, in our view, require immediate attention are:

- (i) The Socio-Political Environment and the Decentralisation Process: The Role of the Higher Services in the Governance of the Country;
- (ii) The Emerging Economic and Social Agenda: Services as Instruments of Change and Development; and
- (iii) Ethics and Efficiency in a Changing Administrative Scenario.

The contours of the emerging socio-economic scenario are focused below:

- (i) Emphasis on rural communities and social service management, especially in the areas of education and health.
- (ii) The trend towards a more decontrolled and deregulated economy with the active participation of NGOs and involvement of the private sector.
- (iii) The impact of demographic pressures which will accentuate all national problems, especially increasing urbanisation when, by the year 2030 half of India is likely to be urbanised for the first time in its history. This may pose threats to socio-economic and political stability, especially with the educated and organised sectors in urban India experiencing a failing infrastructure.
- (iv) Viability of the State with resource constraints to meet rising expectations.

The environment in which a civil servant functions must be rid of petty pressures so as to bring out the best in him and help him face up to the challenges of public service. The serving officers need to have the courage of their convictions and an abiding interest in the welfare of the people, particularly the weaker sections. There is a need to strengthen the motivation of the Service and to insulate the officers from political pressures. This would come only if the Service is given due recognition for the role played by it in the process of development. To ensure the above change, a gradual shift in recruitment, training and deployment of public servants may be introduced, and the review and efficiency-bar regulations may be made more effective. The ever bloating size of the government services in the non-productive areas should be reduced.

In the year 1991 the country underwent a major reforms process. It was a landmark year as, for the first time, the economy was systematically opened up and large-scale changes were introduced in the various sectors of the economy. This has been accompanied by the 'rolling-back' of the state and the economic sector. The Service, we feel, accordingly needs to equip itself to perform its new role as 'facilitators' of the process of development besides being 'doers'.

The revival of Panchayati Raj Institutions has also altered the working environment and the Service has to reorient itself to the reality that these institutions are partners in the process of development. It has to comprehend the new processes and evolve a strategy that would best serve the interest of the public in this changed milieu. The Service should facilitate quicker implementation of rural and social development programmes, especially in the sphere of health and education, and involve the beneficiaries in the decision-making process. The Panchayati Raj functionaries should be re-trained so that they appreciate their role better and reorient themselves to discharge the newer responsibilities. The officers should also assist the empowering of local communities and their leaders. This will facilitate sharing of power and enabling the beneficiaries to become active partners in the development process. All this will require a basic attitudinal change among public servants, especially at the lower levels, for which the senior personnel should set the example.

Finally, an area of concern which, we feel, needs immediate attention is the whole question of ethics and the concept of efficiency in government. It is no use bemoaning the decline in the moral standards in the society as a whole. The Service has to recognize this reality and gear itself to meet the challenges arising therefrom. For this to happen, (i) the decision-making process should be

institutionalized; (ii) laws and rules should be simplified and made transparent; (iii) discretion should be strictly justified and judiciously exercised; (iv) the people should have free access to information; (v) delay in delivery should be treated as 'misconduct' and officers responsible penalized; (vi) the trial in corruption cases should be speeded up; (vii) the senior officers should act as role models for the younger generations; and (viii) above all, the missionary nature of Public Service should be highlighted and the administration should project a human face.

We, therefore, resolve that the Service reorient itself to meet the demands of the times through:

1. Developing a better understanding of the complementary role between the political and the permanent executives at various levels and generating an environment of mutual trust and co-operation between them;
2. Equipping itself by specialization in the relevant areas;
3. Shifting from mere physical and financial targeting, to result orientation, objective performance appraisal norms, controlling cost overruns by more efficient implementation, and transparent public accountability;
4. Taking effective and concrete steps for reinforcing ethical behaviour and eliminating corruption at the various contact points of public dealing; and
5. Remembering that it is the agent of change for a better tomorrow and, therefore, enlarging its role as a facilitator for a proper environment for development and progress.

We hereby adopt this resolution with the conviction that an appropriate mechanism will be set up to monitor and follow-up these recommendations.<sup>9</sup>

An extremely moving and inspiring initiative has been taken by the doyen of Indian Civil/Administrative Service, Mr Dharma Vira, who is 94 years in age. He has had vast experience of Indian administration, having worked closely with Prime Ministers Jawaharlal Nehru, Lal Bahadur Shastri and Indira Gandhi and having held some of the highest offices of the State such as cabinet secretary and governor. By a personal letter dated 10 December 1999, addressed to each IAS officer through the cabinet secretary and the chief secretary concerned, he has urged them all to support the government by

observing the following four guiding principles steadfastly in the performance of their duties:

1. Absolute integrity.
2. Giving advice to your ministers in accordance with the Constitution and laws of the country and not to please the ministers by giving advice that would please them and be acceptable by them.
3. In all your actions you should be conscious of the evils from which about 40 per cent of your people are suffering, viz., poverty, illiteracy and lack of medical care, etc. You are the servants of the people, not of the ministers, required to serve the people by absolute impartiality and total consciousness of what you have to do to remove the evils plaguing over 40 per cent of our population. In over 50 years of democracy we should have by now removed these evils and they have not been removed because of the weaknesses in our own characters.
4. Disposal of cases should be by orders short and swift. There is no reason why cases should move from desk to desk and officer to officer for months before final disposal is made.

I have no doubt that every member of the Service will abide by this invaluable advice and will function, in the words of Dharma Vira, as a patriot.

All these developments reinforce the belief that members of the IAS who occupy crucial positions of responsibility all over the country, can, by their own concerted endeavours, re-establish transparency, accountability, efficiency and integrity in the administration of the country at all levels. There is no other entity in the country which is so well placed for this task. The leaders of the Service—the cabinet secretary at the centre and chief secretaries in the states thus have the enormous, inalienable and historic responsibility as the country stands at the threshold of a new millennium, to promote with determination, but without fanfare, a much needed movement for a well administered India, so vital for the welfare of all the billion people of the country. With such an endeavour under way, the country can move confidently towards an honest polity, an ethics-based society and a clean business environment as explained in the chapters which follow.

## ENDNOTES

1. Chapter 4.
2. Madhav Godbole, 'Corruption, Political Interference, and the Civil Service' in S. Guhan and Samuel Paul (Eds), *Corruption in India—Agenda for Action*, Vision Books (P) Ltd., New Delhi, 1997, p. 62.
3. Chandan Mitra, *The Corrupt Society*, Viking, New Delhi, 1998, p. 27.
4. Madhav Godbole, op. cit., 1997, pp. 61, 62.
5. *Report of the Fifth Central Pay Commission*, Vol. III, Government of India Publication, New Delhi, 1997, para 105.5, p. 1574.
6. *Policy Research—The Asian Miracle: Economic Growth and Public Policy*, World Bank, Oxford University Press, Washington DC, 1993, pp. 175, 176.
7. *Annual Abstract of Statistics*, Central Statistical Office, HMSO, numbers 84–132, from 1945 onwards.
8. *Fifth Central Pay Commission Report*, Vol. I, Government of India Publication, New Delhi, 1997, p. 246.
9. Reproduced with the permission of B.S. Baswan, Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.

## **CHAPTER 11**

### *Towards an Honest Polity*

It is a self-evident truth that ethics is the only secure and everlasting foundation for a democratic form of government. In the historic words of Abraham Lincoln, uttered on 19 November 1863 in his Gettysburg address, democracy is a 'government of the people, by the people, and for the people'. It guarantees equality and liberty according to law to every citizen. A democratic government must always subserve the common good. All its activities must necessarily be based on the moral principle. Lord Acton defined liberty as the 'Reign of Conscience' with 'Reason commanding reason, not will commanding will'.<sup>1</sup> That would be a very apt definition of democracy as well.

The Constitution of India, in letter and content, is as democratic as is the constitution of any other well-established democracy. But we are discussing here not the contents of India's Constitution but the basic principle which animates and inspires the governance of the country under the control and direction of political leaders elected by the people. That principle should have been enunciated and affirmed openly, clearly and firmly by the first prime minister of India on 15 August 1947. And that principle should have been 'ethics in every aspect of government'.

Such a message conveyed by the nation's leader and head of government, at that emotionally charged moment of Independence, would have captured the heart of every functionary and would have given a tone of honesty to every aspect of national activity—legislative, judicial or executive. It would also have had a binding effect on future administrations. As we have noted already, Lee Kuan Yew, when laying the foundations of the newly-independent State of Singapore, gave, unequivocally, the highest priority to honest and efficient administration serving impartially in the best interests of the people. And Singapore today is one of the most honest and best

administered states of the world. But it might be considered irreverent to cite the example of one of the tiniest States of the world which has a population of less than 3 million when discussing the problems of the world's most populous democracy which has a population of a billion people. Let us, therefore, take a more comparable example, that of the world's most powerful democracy, the United States of America.

In 1789, George Washington became the first President of USA under the new Federal Constitution.

At the beginning of his administration, President George Washington established fitness of character as the primary standard of selection of appointees, especially those who were to be policy makers and operations personnel. Fitness of character was considered to be the resultant of personal integrity and favourable standing in the community.

One of the first pieces of legislation signed by President Washington authorised department heads to prescribe regulations, not inconsistent with law, for the conduct of department officers and clerks.<sup>2</sup>

In his farewell address, President Washington interspersed remarks about the efficacy of government ethics. He hoped that, based on the Constitution, the administration in every department of government would be 'stamped with wisdom and virtue'. Stressing obedience to the Constitution and the laws of the land, he said: 'The very ideal of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.'

At another point in his address, the President stated: 'It is substantially true that virtue or morality is a necessary spring of popular government.'

Later he stressed honesty in government: 'I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy.'

Near the end of his address, he underscored his belief in such ideas when he stated: 'How far in the discharge of my official duties I have been guided by the principles which I have delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my conscience is that I have at least believed myself to be guided by them.'<sup>3</sup>

In the government of the United States of America, the word 'ethics' has high visibility and pervasiveness. Ethical conduct on the part of all members of the American Congress and all federal government

employees including officers of the highest rank such as members of the cabinet, is ensured by clear and firm legislation. The two major sources of ethics laws are Title 18 of the United States Code and the Ethics in Government Act of 1978. This latter Act has since been comprehensively revised by the Ethics Reform Act of 1989.

The ethics programme is based on the following two core concepts:

1. Employees shall not use public office for private gain, and
2. Employees shall act impartially and not give preferential treatment to any private organization or individual.

By President's Executive Order 12674 of 12 April 1989 (as modified by Executive Order 12731), 'Principles of Ethical Conduct for Government Officers and Employees' have been laid down in detail. One of these is quoted below:

#### **Section 101. Principles of Ethical Conduct**

To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal Employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under Sections 201 and 301 of this order:

- (a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

Clearly the purpose of all this legislation is to instil in the minds and hearts of all federal officers and employees with the principle that in discharging their official duties they are to be governed not only by specific legislative provisions but also by 'ethical principles':

These ethical principles are common to all civilized societies and established polities.

The law relating to the crime of bribery on the part of 'public officials' is comprehensive and leaves no ambiguity as to who is covered and who is not covered by this term. In this regard, the following quotation is of relevance:

#### **Title 18—Crimes and Criminal Procedure Part I—Crimes Chapter II—Bribery, Graft and Conflicts of Interest**

Section 201, Bribery of public officials and witnesses.

- (a) For the purpose of this section:
- (i) the term 'public official' means member of Congress. Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of government, or a juror. . . .

One final point about the ubiquitous 'visibility' of ethics in government. It is not without purpose that all work relating to the enforcement of integrity in government is coordinated by the *US Office of Government Ethics*.

The United States of America is one of the strongest bastions of secularism. There is no official religion and every citizen is free to follow any faith of his or her choice. Religion is treated strictly as a private matter and no one makes any effort, overt or surreptitious, to push any particular religion, not even the majority Christian religion, into any aspect of governmental administration. All important religions and numerous denominations have their own adherents and they all live together as just Americans without even thinking of saying anything or doing anything over to injure the religious susceptibilities of any group of people. In respect of all matters, except for personal religion, every citizen of the United States of America owes and displays total and unconditional loyalty to his country and to its Constitution. That is genuine secularism. But in USA, secularism has not been interpreted or applied as an amoral concept. On the contrary, secularism has been firmly, openly and indissolubly intertwined with moral and ethical principles. Clearly, secularism without an unequivocal coupling with ethics tends to degenerate into an anchorless, valueless and corrupt polity. And ethics without real secularism might be surreptitiously extended into a covert theocracy of the majority religion. Thus, it is only by a determined adherence to both secularism and ethical principles that real democracy—government of the people, by the people, and for the people—can be secured not only for the current but indeed for all the generations to come.

But keeping in view the fallibility of human nature and the soul, and the destructive effect of power, only constitutional and statutory provisions for safeguarding and ensuring the unconditional and uninhibited observance of ethical principles, while absolutely essential

and indispensable, would not be enough. Leaders of government have to provide role models. They have to lead by example. It is for this reason that many of George Washington's successors have publicly affirmed their faith in ethics and morality for the governance of their country. During the presidency of John Quincy Adams, a friend of the president, an auditor, was accused of embezzlement of government money. Adams made sure that the erring official was arrested and tried. The result was conviction and imprisonment. President Adams expressed his agony at the perfidy of his friend in the following words:

That an officer under my administration and appointed partly at my recommendation should have embezzled any part of the public monies is a deeper affliction to me than almost anything else that has happened: that he was personally and warmly my friend aggravates the calamity.<sup>4</sup>

Let us turn to the example of United Kingdom. In whatever Prime Minister Tony Blair says or does, he adheres scrupulously to ethical standards. He talks of the commencement of a new 'giving age'. He keeps reminding the MPs of his political party that 'We are the servants of the people. They are the masters.' About integrity he asserts day in and day out that 'We must always be clean, indeed cleaner than clean.' If there is any incident of unworthy or improper behaviour involving any member or functionary of his party, retribution follows overnight. Two cabinet ministers had to resign immediately after it was known that they had transgressed the prescribed norms.

There is, in the United Kingdom, unremitting stress on the observance of the highest possible standards in public life. In 1994, the Government of the United Kingdom appointed a top-level body called the Committee on Standards In Public Life under the chairmanship of the Rt. Hon. Lord Nolan, with a very distinguished membership. The terms of reference of this Committee which is now known as the Nolan Committee<sup>5</sup>, are:

To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.

For these purposes, public office should include:

Ministers, civil servants and advisers; members of Parliament and UK members of European Parliament; members and senior officers of all non-departmental public bodies and of NHS bodies; non-ministerial office holders; members and other senior officers of other bodies discharging publicly-funded functions; and elected members and senior officers of local authorities.

The Nolan Committee has completed several major studies and has made important recommendations for radical changes in *the ethical framework* within which all holders of public office should operate.

In its reports to the prime minister, the Nolan Committee has, *inter alia*, recommended certain fundamental principles governing the conduct of all holders of public office. These are quoted below:

### **The Seven Principles of Public Life**

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families, or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### Honesty

Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### Leadership

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.

The above-mentioned 'Seven Principles' have been enunciated in the *Third Report of the Committee on Standards of Public life*, submitted by its Chairman, Lord Nolan, to the prime minister of the United Kingdom in July 1997. In his letter forwarding this report, Lord Nolan has proposed the creation of a new statutory offence of misuse of public office, which, though not entailing bribery or corruption, is nevertheless improper.

The 'Seven Principles' formulated by the Nolan Committee on Standards in Public Life constitute an 'ethical framework' for the holders of public office throughout the nation. The Committee has invited attention to the fact that despite instances of corruption and misbehaviour, the vast majority of public officers observe high standards. Nevertheless, Lord Nolan considers it important to have in place mechanisms to prevent misconduct and to deal with it effectively.

As already mentioned briefly in an earlier chapter, Prime Minister Tony Blair has promulgated a Ministerial Code.<sup>6</sup> In his Foreword, the prime minister has defined his objective and vision very clearly in the following words:

In issuing this Code, I should like to reaffirm my strong personal commitment to restoring the bond of trust between the British people

and their Government. We are all here to serve and we must all serve honestly and in the interests of those who gave us positions of trust.

I will expect all ministers to work within the letter and spirit of the Code. Ministers will find the Code a useful source of guidance and reference as they undertake their official duties in a way that upholds the highest standards of propriety.

I have decided to publish this document because openness is a vital ingredient of good, accountable government. And we will extend openness further through a Freedom of Information Act.

I believe we should be absolutely clear about how ministers should account, and be held to account, by Parliament and the public. The first paragraph of the Code sets out these responsibilities clearly, following the terms of the House of Commons Resolution on Ministerial Accountability carried last March.

I commend the Code to all my Ministerial colleagues.

The first paragraph of the Ministerial Code which provides binding guidance, in forthright language, to ministers on all issues of fundamental importance, is reproduced below:

### **1. Ministers of the Crown**

Ministers of the Crown are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. In particular, they must observe the following principles of Ministerial conduct:

- (i) Ministers must uphold the principle of collective responsibility;
- (ii) Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their Departments and Next Steps Agencies;
- (iii) It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;
- (iv) Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute and the *Government's Code of Practice and Access to Government Information* (Second Edition, January 1997);

- (v) Similarly, Ministers should require civil servants who give evidence before Parliamentary Committees on their behalf and under their directions to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code (January 1996);
- (vi) Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
- (vii) Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;
- (viii) Ministers in the House of Commons must keep separate their role as Minister and Constituency Member;
- (ix) Ministers must not use resources for party political purposes.  
*They must uphold the political impartiality of the Civil Service, and not ask civil servants to act in any way which would conflict with the Civil Service Code.*

(Note: Emphasis added)

The Ministerial Code ensures that the ministers exercise their immense powers and make decisions on the basis of well-reasoned considerations always in the interest of the people who elected the government of the day and who are the ultimate masters. There is, in this situation, no room for any arbitrariness or high-handedness. Paragraphs 56, 57 and 58 of Section 5 of the *Ministerial Code—A Code of Conduct and Guidance on Procedures for Ministers*, are relevant in this connection and are, therefore quoted below:

### 5. Ministers and Civil Servants

56. Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions; a duty to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in anyway which would conflict with the Civil Service Code; a duty to ensure that influence over appointments is not abused for partisan purposes; and a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them. Civil servants should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people

paid from public funds are being used for party political purposes.

### The Role of the Accounting Officer

57. Heads of Departments and the chief executives of executive agencies are appointed as Accounting Officers. The essence of the role is a *personal* responsibility for the propriety and regularity of the public finances for which he or she is responsible; for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Accounting Officers answer personally to the Committee of Public Accounts on these matters, within the framework of ministerial accountability to Parliament for the policies, actions and conduct of their Departments.
58. Accounting Officers have a particular responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness and value for money. If a minister in charge of a department is contemplating a course of action which would involve a transaction which the Accounting Officer considers would breach the requirements of propriety or regularity, the Accounting Officer will set out in writing his or her objection to the proposal, the reasons for the objection and the duty to inform the Comptroller and Auditor General should the advice be overruled. If the Minister decides nonetheless to proceed, the Accounting Officer will seek a written instruction to take the action in question and send the relevant papers to the Comptroller and Auditor General. A similar procedure applies where the Accounting Officer has concerns as regards the value for money of a proposed course of action. The procedure enables the Committee of Public Accounts to see that the Accounting Officer does not bear personal responsibility for the actions concerned.

It is obvious that the provisions of the Ministerial Code have been formulated with meticulous care in order to ensure transparent integrity.

In brief, Prime Minister Tony Blair has asked all his ministers to promote and protect the integrity of public life and to uphold the highest standards in every aspect of their responsibilities. The ministers, willingly and happily, comply with this requirement. Those who stray go out of government very swiftly.

The bureaucracy in the United Kingdom is governed by a Civil Service Code which enjoins the civil servants to function in accordance with the principles of probity, political neutrality and loyalty to the duly constituted government of the country. This Code provides also clear and binding guidance about the relationship between civil servants and ministers both of whom are required to serve the country in accordance with ethical standards. For purposes of reference, the contents of the UK Civil Service Code are quoted below in full:

### **The Civil Service Code**

**1**

The constitutional and practical role of the Civil Service is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government, of whatever political complexion, in formulating policies of the Government, carrying out decisions of the Government and in administering public services for which the Government is responsible.

**2**

Civil servants are servants of the Crown. Constitutionally, the Crown acts on the advice of Ministers and, subject to the provisions of this Code, civil servants owe their loyalty to the duly constituted Government.

**3**

This Code should be seen in the context of the duties and responsibilities of Ministers set out in Questions of Procedure for Ministers which include:

- accountability to Parliament;
- the duty to give Parliament and the public as full information as possible about the policies, decisions and actions of the Government, and not to deceive or knowingly mislead Parliament and the public;
- the duty not to use public resources for party political purposes, to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in anyway which would conflict with the Civil Service Code;

- the duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching decisions; and
  - the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice;
- together with the duty to familiarize themselves with the contents of this Code.

4

Civil servants should serve the duly constituted Government in accordance with the principles set out in this Code and recognizing:

- the accountability of civil servants to the Minister or, as the case may be, the office holder in charge of their department;
- the duty of all public officers to discharge public functions reasonably and according to the law;
- the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and
- ethical standards governing particular professions.

5

Civil servants should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to Ministers, without fear or favour, and make all information relevant to a decision available to Ministers. They should not deceive or knowingly mislead Ministers, Parliament or the public.

6

Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.

7

Civil servants should endeavour to ensure the proper, effective and efficient use of public money.

Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.

Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers and to be able to establish the same relationship with those whom they may be required to serve in some future Administration. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers and potential future Ministers can be sure that confidence can be freely given, and that the Civil Service will conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the policies of the duly constituted Government.

Civil servants should not without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. Nothing in the Code should be taken as overriding existing statutory or common law obligations to keep confidential, or to disclose, certain information. They should not seek to frustrate or influence the policies, decisions or actions of Government by the unauthorised, improper or premature disclosure outside the Government of any information to which they have had access as civil servants.

Where a civil servant believes he or she is being required to act in a way which:

- is illegal, improper, or unethical;
- is in breach of constitutional convention or a professional code;
- may involve possible maladministration;  
or
- is otherwise inconsistent with this Code;

he or she should report the matter in accordance with procedures laid down in departmental guidance or rules of conduct. A civil servant should also report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report in accordance with departmental procedures if he or she becomes aware of other breaches of this Code or is required to act in a way which, for him or her, raises a fundamental issue of conscience.

## 12

Where a civil servant has reported a matter covered in paragraph 11 in accordance with procedures laid down in departmental guidance or rules of conduct and believes that the response does not represent a reasonable response to the grounds of his or her concern, he or she may report the matter in writing to the Civil Service Commissioners.

## 13

Civil servants should not seek to frustrate the policies, decisions or actions of Government by declining to take, or abstaining from, action which flows from ministerial decisions. Where a matter cannot be resolved by the procedures set out in paragraphs 11 and 12 above, on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Civil Service. Civil servants should continue to observe their duties of confidentiality after they have left Crown employment.

The important point to be noticed is that civil servants are required not only to act with integrity, impartiality and honesty all the time but also to resist any attempt on the part of ministers to force them (the civil servants) to act in any illegal, improper or unethical manner or in breach of constitutional convention or in a way which may involve possible maladministration. In the latter case, they have the duty to report the matter to independent authorities such as the comptroller and auditor general or the civil service commissioners. These provisions ensure that both ministers and civil servants have to function with honesty and that neither can get away with any action which is improper or unethical. To put it in another way, the ministers can control and direct the civil servants but the civil servants can, effectively, check the ministers.

The prime minister of Australia has also promulgated *A Guide on Key Elements of Ministerial Responsibility*.<sup>7</sup>

Here is a relevant quotation:

## 6. Ministers' Relations with Departments

The Australian Public Service (APS) exists to provide advice to the government, and give effect to its policies. The Service is based on a number of important principles, including: high standards of honesty, integrity and conduct; equitable service to the public; provision of frank and comprehensive advice to ministers; a strong emphasis on responsiveness to the government, the Parliament and the community; party-political impartiality; and staffing based on merit.

It is important that there be trust between ministers and public servants, and each must contribute to the establishment and maintenance of the trust. *Ministers should be scrupulous in avoiding asking public servants to do anything that the APS principles do not permit, and in particular should not ask them to engage in activities, which could call into question their political impartiality.*

Ministers will obtain advice from a range of sources, but primarily from their private office and from their departments. There is clearly no obligation on ministers to accept advice put to them by public servants, but it is important that advice be considered carefully and fairly. It is not for public servants to continue to press their advice beyond the point where their ministers have indicated that the advice, having been fully considered, is not the favoured approach. Public servants should feel free, however, to raise issues for reconsideration if they believe there are emerging problems or additional information that warrant fresh examination.

In the United States of America, there is a presidential order establishing fair and exacting standards of ethical conduct for all employees in the executive branch. The purpose is to ensure that every citizen has complete confidence in the integrity of the federal government. Section 101 of President's Executive Order 12731 of 17 October 1990, provides that: '(a) Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.' What is required from civil servants is allegiance to the Constitution and to the laws and not to any individual.

Even so, it is not as if there is no corruption in the United Kingdom or in Australia or in the United States of America. Undoubtedly there is some corruption in all these countries. A member of the UK Parliament had accepted money and/or hospitality for asking

questions in Parliament. When an enquiry found him guilty, he had to go. There are instances of corruption among a section of the police, especially those who deal with drug smuggling cases. In local government offices also a few instances have come to light. But these instances are very few and far between. A very large proportion of the political class and bureaucracy is impeccably honest. In the Scandinavian countries, that is, Denmark, Finland, Sweden and Norway, the standard of integrity in national administration is very high indeed and this is true of New Zealand and Singapore as well. The reason is that all these countries look after their political class and bureaucrats extremely well. There is no *need* for any one even to think of corruption.

In India, unfortunately, the current picture, as we have seen already, is entirely different. The country is in the grips of massive corruption and the situation is getting worse by the day.

Nevertheless, India cannot and must not be allowed to slide into chaos. With strong political will at the top, it should certainly be possible to reverse the trend. It must be possible. Of course, as has been observed by so many, there is no magic wand with which one can wave corruption away overnight. But there is still a way, a hard way, to make a new beginning in India, this time on the basis of *ethics*, provided the leaders of the country are willing to place the question of battle against corruption on top of the nation's political agenda. It must be recognized, however, that it would be impossible to plan, all at once, a total war against corruption at all points, in all areas and in respect of all persons involved in this nefarious activity all over the country.

As we have seen, corruption began in India at the top and then seeped down to lower formations. It is at the top, therefore, that the cleansing process must begin. Initial efforts must, therefore, be directed to the creation of a regime in which the top political leaders, namely ministers, MPs and MLAs as well as top bureaucrats are able to function with integrity and with unwavering adherence to general ethical principles, without any compulsive need to resort to corruption. Let us then proceed with this task.

All the available historical evidence shows that transparent, honest, ethics-based and efficient governmental administration does not arise by itself and that it has to be created, sustained and nurtured by the political leadership of the country. It is also an established fact that for ensuring integrity in the governance of the country there must be in existence, at least, the following two elements:

1. a well-conceived and comprehensive statutory regime, supplemented by conventions, codes of conduct, etc., for the prevention and control of corruption and the swift and deterrent punishment of those who are found guilty; and
2. a high-level and independent statutory standing machinery for the initial determination of equitable salaries for all public servants and for an annual review and adjustment as may be required.

India desperately needs both these elements in its polity. As regards a comprehensive legal regime for the prevention and control of corruption, coupled with statutory arrangements for the determination and annual review of salaries, it is suggested that the following eight proposals may be considered for implementation by appropriate Parliamentary enactments:

1. *Elimination of corruption from the electoral system. Appointment of an Electoral Reforms Committee comprising eminent political scientists and legal luminaries*

As is well known, the electoral system in India is presently riddled with corrupt practices and criminality, negating the basic concept of democracy as rule by freely and honestly elected representatives of the people. Black money and 'muscle power' are, in many cases, used audaciously. Under trial prisoners, accused of robbery, murder, etc., come out of jails under police escort, to file nomination papers. Even well-established political parties field such candidates because of their 'influence' in certain electoral constituencies!

The stark truth is that the roots of corruption in the political system lie deeply embedded in the marsh of black money provided by unscrupulous elements to the candidates of different political parties. And here is a narration of why and how it happens.

The supreme, directly elected chamber of India's Parliament is the Lok Sabha which has 543 elected and 2 nominated members, making a total of 545 members. An average Lok Sabha constituency presently has a population of about 1.8 million people and an electorate of about 1 million voters. The size of an average single member constituency for direct election on the basis of adult franchise in India is very large compared to other countries in the world. An average constituency in the United States of America for election to the House of Representatives has a population of about 0.62 million people. The comparable figure for the United Kingdom with respect to the

House of Commons is 0.09 million. The situation with regard to the upper houses in bicameral legislatures is unique in each country.

A candidate for election to India's Lok Sabha has to cover a vast area and a very large electorate for seeking support. This requires substantial expenditure. In order to prevent money bags from capturing all constituencies, a limit of Rs 1.5 million on election expenses for each candidate has been imposed by law. But this is a completely unrealistic limit. It is common knowledge that this limit is seldom, if ever, actually observed. The general unofficial estimate of actual expenditure per Lok Sabha candidate in most constituencies is Rs 15 million to 20 million. All of this is black money and it is provided to the 'winnable' candidates of major political parties by rival groups of 'big guns' of the area or the state. But this is not done philanthropically. It is always a hard bargain; it is an investment for huge returns in the future. And the person who accepts this monetary arrangement for his election is caught in a net from which he cannot escape. Elections to the Lok Sabha are held every 5 years, unless held earlier because of premature dissolution. An MP who looks forward to several re-elections, cannot afford to do away with the shackles which tie him to his benefactors. He endeavours continuously to keep his unofficial financial lifelines intact for the next election.

For repaying his benefactors, an MP is obliged to resort to corrupt practices from the very beginning of his term. That is how quite a few MPs allegedly become 'power brokers', 'deal fixers', 'permit seekers', 'bribe takers', etc. And this is the way the corruption machinery keeps churning on and on. It is this deep seated malaise in the election system of India which is the foundation of the country's corruption—horrendous corruption in the political arena. And it is this foundation which has to be exhumed with its roots and incinerated. In its place the country has to lay a new foundation in order not merely to ensure integrity in the polity but, even more importantly, to safeguard democracy and liberty. This has to be done now because as time passes, the grip of mafia on the election machinery will keep on strengthening thus making redemption ever more difficult, and at some stage even impossible.

Clearly, the elimination of the use of black money and the role of criminals from the electoral process is essential for saving Indian democracy. Specific new provisions need to be enacted to disqualify all persons against whom charges have been framed by a court of law in respect of offences such as murder, culpable homicide not amounting to murder, robbery, rape, money laundering and other similarly serious offences. Such persons would need to be made ineligible for

participation in the electoral process as candidates or as election agents. Carriage of any weapon, *lathi* or knife would have to be banned for the entire period commencing with the notification of the electoral process and ending two days after the declaration of results. Violent behaviour on the part of any person during the election period should be made a serious cognisable offence. The amount of money and the items on which this can be used, would have to be severely limited. Any contravention would need to be punished with deterrent jail terms. Any person convicted of a criminal offence should then be debarred for a long period of time from participation in the electoral process as a candidate or as an election agent or even as a voter.

All these and other relevant issues need to be examined in depth by an independent body of eminent persons who have distinguished themselves in the fields of constitutional law and political science. A committee of such specialists could take into account the recommendations of the Indrajit Gupta Committee on State Funding of Elections. What is now needed is a comprehensive strengthening of The Representation of the People Act, 1951, with a view to eliminating the scourges of black money, muscle power, bogus voting, booth capturing and all other forms of criminality from the electoral process. The violence and killing seen in some areas during the Assembly Elections in February, 2000 have caused the gravest concern. Some drastic provisions may have to be incorporated in the law relating to the conduct of election in order to save democracy. Hence the proposal for the appointment of a high level specialist committee to examine this matter and to make well considered recommendations.

## *2. Submission of comprehensive property statements by all 'Public Officials'*

In order to prevent 'public officials' from accumulating wealth by corrupt means, it is essential that, right at the time of appointment, every official is obliged by law to submit to a 'designated authority', a 'property statement' giving complete and truthful information about all movable and immovable property of every description, including shares, jewellery, cash balances, etc., owned by the reporting public official, his or her spouse and minor children.

A detailed proforma for this purpose would need to be prescribed by law in order to ensure that the information provided is detailed, specific and itemized. There should be no scope for vague and

general descriptions which might be used to provide a cover for 'corrupt' accretions in future.

In the United States of America, the Ethics in Government Act, 1978, lays down in great detail the requirements in respect of the contents of property reports. For purposes of reference, relevant sections, as applicable to legislative personnel, are reproduced in Annexure I. The Ethics in Government Act, 1978, contains parallel provisions with respect to personnel of the executive branch and the judicial branch also.

The Indian law on this subject should require compliance with, *inter alia*, the following:

1. Property statements should be submitted to the designated authority within 30 days of the date of appointment to a public office.
2. Any delay in the submission of the property statement by the due date should lead to a fine. If the property statement is not received within a total period of 60 days from the date of appointment, the defaulting individual should be liable for suspension. Delay beyond 90 days should result in resignation or removal.
3. The designated authority should review the property statement and should ask for clarification or supplementary information as necessary.
4. Any deliberately false statement should result in a penalty unless the mistake was inadvertent.
5. All property statements should be updated annually.
6. Any property accrual of more than a prescribed value should be reported to the designated authority within 30 days of such accrual.
7. All property statements should be open to public inspection.

For the purposes of this law, 'public official' should mean and include the prime minister, ministers and MPs as well as those holding corresponding public offices in the states, if by common consent a uniform law on this subject can be enacted both for the centre and the states. The term 'public official' should also include all civil servants of gazetted status.

Statutory provision of this nature would eliminate the possibility of 'public officials' seeking to enrich themselves through corrupt means by misusing their position. The 'tendency of "power" to corrupt' would thus be thwarted.

3. *Codes of Conduct for*

- (a) ministers;
- (b) MPs and MLAs;
- (c) presidents of *zila parishads* and other politicians who exercise any executive authority in development related matters; and
- (d) civil servants.

Codes of conduct play an extremely important role in specifying the responsibilities of a particular category of public officials, the extent of his authority, the limitations on that authority and the manner in which the responsibilities of the public official concerned should be discharged. The codes also clearly define the nature of relationships between ministers and Parliament as well as between ministers and civil servants. Furthermore the codes enjoin all concerned persons to act in all situations with a sense of high responsibility, decorum and decency, with unconditional loyalty to the Constitution and to the laws of the country and with absolute integrity. Gifts of a value above a small figure and lavish hospitality are banned. In brief, codes of conduct provide binding guidance about behaviour, relationships with other individuals and groups and the parameters within which specific responsibilities needed to be discharged. But the codes of conduct need to be binding documents. Hence the need for statutory sanction.

The Ethics Committee of 11th Lok Sabha headed by former Minister P. Upendra and the Ethics Committee of the Rajya Sabha under the chairmanship of former Home Minister, S.B. Chavan, have already collected a great deal of information about the codes of conduct in other democratic countries. Additional material on this important subject has been included in this book for the purpose of reference. What is now necessary is the next step—drafting new codes of conduct for ministers and for MPs for eventual consideration and approval by the cabinet and by the two Houses of Parliament.

Other democratic countries where the standard of integrity, according to Transparency International's index, is much higher than in India, have found it necessary to promulgate and enforce very strict codes of conduct for ministers, MPs and holders of public office in the local government departments, in order to maintain the highest possible level of transparency and integrity among members of the political class.

The top civil servants are already subject to conduct rules framed under Acts of Parliament but these would need to be tightened up further, especially to provide for adherence to generally accepted ethical principles.

#### 4. *Punishment for bribery*

The law relating to the offence of bribery needs to be reviewed and strengthened especially in the light of the Supreme Court judgement in the case of an MP belonging to the Jharkhand Mukti Morcha. Obviously the law on the subject of bribery is not clear or comprehensive enough. Provision should be made also for the confiscation of all illegally acquired movable or immovable property as well as for heavy fines and long jail terms.

The law on the subject of bribery in the United States of America, for instance, is extremely comprehensive. It defines clearly all the public officials who are covered by the law, it narrates in great detail what constitutes bribery and it provides severe punishment for the offenders. Attention in this connection is invited to Section 201 of Title 18—Crimes and Criminal Procedure, United States Code. For facility of easy reference, this Section is quoted in full below so that the readers may see for themselves how very meticulously legislation on this subject has been enacted in the United States, and then demand that a similarly comprehensive law be enacted in India also:

#### Section 201. Bribery of public officials and witnesses

##### (a) For the purpose of this section:

- (1) the term 'public official' means Members of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;
- (2) the term 'person who has been selected to be a public official' means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and
- (3) the term 'official act' means any decision or action on any question, matter, cause, suit, proceeding or controversy, which

may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever:

- (1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent:
  - (A) to influence any official act; or
  - (B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
  - (C) to include such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;
- (2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value
  - (A) being influenced in the performance of any official act;
  - (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or
  - (C) being induced to do or omit to do any act in violation of the official duty of such official or person;
- (3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

- (4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom; shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honour, trust, or profit under the United States.

(c) Whoever:

- (1) otherwise than as provided by law for the proper discharge of official duty
  - (A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or
  - (B) being a public official, former public official, or person selected to be public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;
- (2) directly or indirectly gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;
- (3) directly or indirectly demands, seeks, receives, accepts, or agrees or receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such

trial, hearing, or other proceeding, or for or because of such person's absence therefrom;  
shall be fined under this title or imprisoned for not more than two years, or both.

- (d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable proceeding, or in the case of expert witnesses, a reasonable fee for testifying.
- (e) The offences and penalties prescribed in the Section are separate from and in addition to those prescribed in Sections 1503, 1504 and 1505 of this title.

#### *5. Standing Committee for the determination and annual review of the salary of the prime minister, ministers and members of Parliament as well as state legislatures*

As has been demonstrated earlier, the salaries of the political dignitaries in India are extremely low and wholly inadequate to enable them to maintain a reasonable standard of living without the support of their personal means or, failing that, the help of non-official benefactors. This situation has existed in India for many years and has directly resulted in the corruption of the political class.

In order to eliminate corruption and to ensure integrity, the salary structure of these political dignitaries needs to be reviewed with a view to establishing and maintaining appropriate remuneration for each category.

This has been, obviously, a politically sensitive matter and the MPs have been reluctant to set decent salaries for themselves and the ministers, apprehending that any such move would not find favour with the people. In this context, it would be appropriate and, indeed, essential to establish by law an independent high-level standing committee, charged with the responsibility of establishing the salaries initially and making annual review thereafter, subject to parliamentary approval. There is nothing novel in this suggestion as standing committees, with one nomenclature or another, have been constituted in many other countries and they make recommendations annually in this regard. Normally the proposals of such committees are accepted by parliaments without much debate. The great advantage is that the question of ministerial and parliamentary remuneration is

taken away from the political arena and entrusted to an independent body which could be trusted to make appropriate recommendations on the basis of objective criteria.

As has been explained already the financial implications of any reasonable improvement in the salary structure of the entire top-political class of the country would be infinitesimal as compared to the immense advantage which would accrue from honesty and transparency in the governance of the country.

*6. Contributions to political parties should be made only through banking channels*

Probably the most effective tool in the hands of unscrupulous leaders of political parties for corrupting members of Parliament or state legislature has been 'black money' which is doled out selectively at the time of elections or is handed out in 'packets' to provide supplementary income to cover personal expenditure because the official salaries are entirely inadequate. This method has been used to purchase personal loyalty. Once a member accepts to be on the unofficial pay roll of the leader, he loses his conscience and becomes servile for ever.

Since leaders of political parties amassing black money are not obliged to maintain any records of their black money receipts and disbursements, they use it entirely in their discretion to support their favourite candidates in the elections and even thereafter. And of course such financial support is always provided 'under-the-table'.

This source of corruption can be largely closed by a legal provision that donations to political parties must be made through banking channels. In that case, proper accounts would have to be maintained and statutorily audited. The misuse of party funds would then stop. Some clandestine collection of black money may still continue but it would necessarily be much smaller in volume and, therefore, less lethal.

*7. National Commission on Ethics in Government*

The status, powers and responsibilities of the Central Vigilance Commission need to be enhanced in order to enable this apex body to have any chance of success in combating corruption and in initiating a culture of integrity. It is true that thanks to the pronouncement of the Supreme Court of India about the imperative necessity of giving independence to the Central Vigilance Commission, this latter body has been accorded statutory status by an Ordinance. But that may

not be enough for the task on hand. Corruption in India today involves some of the top-political leaders as well as some of the top bureaucrats. Furthermore, corruption is all-pervasive among all categories of functionaries and employees. The apex body charged with the task of turning back the tide of corruption must have the requisite constitutional status and independence as well as the powers and resources required for the effective performance of its enormously difficult task. It is, therefore, suggested that the Central Vigilance Commission be redesignated as National Commission on Ethics in Government and be accorded the same constitutional status, by an appropriate amendment, as has been provided to the Comptroller and Auditor General of India under Article 148, and to the Election Commission under Article 324 of the Constitution. The ambit of the proposed National Commission on Ethics in Government should be enlarged so as to cover all public servants including the prime minister, chief ministers, cabinet ministers, MPs and MLAs as well as all civil servants of gazetted status. The proposed National Commission on Ethics in Government could have two 'divisions', one for political leaders and the other for civil servants.

The proposed new designation of the National Commission on Ethics in Government would indicate that this Commission would be responsible not only for combating corruption but also for initiating positive steps to promote a new climate, a new culture of integrity on the basis of a well-conceived, step-by-step programme.

An important aspect of this matter is that of resources which should be placed at the disposal of the new Commission. Due to known financial constraints, there is a limit to what can be done but it would have to be kept in mind that the benefits to the people resulting from the elimination of corruption in any area of State activity would be far larger than the investment in fighting corruption in that segment.

The proposed National Commission on Ethics in Government, established under the Constitution, would provide an effective mechanism for battling with the demon of corruption with good chances of success and thus restoring clean, transparent and efficient administration in the country. Without such an apex body, the chances of success would be remote. The problem of corruption can no longer be just tinkered with. It needs to be tackled head on.

It would be fundamental to the success of this venture that only persons of the highest reputation for ability, impartiality and integrity, possessing experience of work in exalted positions in Parliament, national administration or judiciary, are appointed to this Commission.

It would be essential also to lay down some clear guidelines for the functioning of the proposed high-power vigilance machinery. One of the principal aims of any well-organized government must be to ensure a working atmosphere in which public officials are able to take well considered and honest decisions expeditiously in order to ensure timely, effective and fair implementation of governmental policies and programmes to the satisfaction of the people. Unfortunately, during the preceding three decades, senior government officials and managers of public enterprises have shown increasing reluctance to make bold decisions and to accept responsibility for the consequences because of the prevailing apprehension that should anything go wrong their integrity would be called into question. Even those who are totally honest and have, therefore, nothing to fear, wish to play safe by involving as many other officials and ministries as they can possibly manage in order to disperse responsibility and accountability. This, of course, causes delays and cost overruns but there is no punishment or accountability in government for slow action. Delays are easily explained by stating ponderously that the matter in question needed careful examination. The corrupt are able to take full advantage of this situation by accepting speed money consensually.

Transparency, accountability and speed in decision-making in the normal course of daily business are fundamental to good governance. Vigilance personnel can help this process considerably by functioning in such a way as to prevent any intimidation or even inhibition of public officials who must feel free to make decisions according to their best judgement on the basis of all available facts at that point in time and even to take well-calculated risks without having to look apprehensively over their shoulders. Generally the results of such decisions would be satisfactory but in an odd case here and there things may go wrong. That is inherent in the situation as no one can guarantee 100 per cent success. But as public officials are enjoined by applicable conduct rules to act with total integrity in all circumstances, the presumption must be that even in cases which did not produce the right result, the decision was taken in a bona fide manner. Every instance in which the result is not satisfactory is not necessarily a vigilance case. The vigilance authorities have a very difficult and delicate role. They have to encourage decision-making by displaying a 'judicial' frame of mind rather than a 'prosecutor's' bias. But once there is clear and reliable evidence of dishonesty in any matter, the screws must be turned on hard and fast. With that kind of unambiguous assurance, the heads of ministries, departments and

public sector enterprises and their colleagues should be able to function boldly and effectively.

It would also be necessary to have a clear policy about anonymous and pseudonymous complaints. Unfortunately there is now a widespread practice of sending anonymous or pseudonymous complaints containing seemingly verifiable 'facts' suggestive of misdemeanour on the part of senior officials. Usually these are sent by disgruntled subordinates. When the head of a ministry or a department or a public enterprise enforces discipline and punctuality and requires an honest day's work, some subordinates, accustomed to laxity, feel rattled. To get such an impudent boss into trouble they shoot off a complaint, hoping that a letter from a superior authority asking for comments on such a 'complaint' would be enough to cause distress and discomfiture to the 'upnish' boss. Sometimes, though rarely, a boss wishing to rein in a 'recalcitrant' subordinate, arranges for such a complaint against the latter in order to harass him. Experience shows also that when an officer is about to be considered for promotion to a higher assignment, anonymous complaints against him start pouring in to prejudice his chances. These are sent by rivals or disgruntled subordinates. This kind of pernicious game goes on widely, causing incalculable damage to no purpose. To stop this, a former prime minister had issued orders to the effect that no notice should be taken of anonymous or pseudonymous complaints. These orders still need to be complied with fully.

There is a body of opinion even among people in the developed countries anxious to combat corruption that 'whistle-blowers' within an organization, who, urged by their conscience, wish to disclose corruption on the part of the bosses, should be enabled to do so without any risk of being charged with indiscipline. Surely this must be encouraged, but not through an anonymous complaint. Other ways can and must be found. In India, the right way would be to designate a senior officer in the Vigilance Commission to receive the complaints of 'whistle-blowers' provided the latter disclose their identity. It must, however, be a part of this arrangement that those who make false complaints would be liable to deterrent punishment under criminal law. This part of the law relating to corruption alongwith other parts should be seen to be effectively implemented with apparent objectivity.

The real requirement is a Constitutional Commission on Ethics to promote a culture of integrity and to combat corruption without wasting its precious resources on chasing a mirage created by anonymous complaints.

But there must be sustained and effective vigilance which should deter those who are inclined to be corrupt but which should cause no apprehension to the honest. And where there is evidence to establish corruption, cases must proceed in a court of law on day-to-day basis without any long adjournment. When a person is found guilty of the offence of corruption, the punishment must be severe with an adequate jail sentence and a confiscation of all ill-gotten property. This would be the way to make corruption a high-risk, high-cost and ruinous business. A few verdicts of this kind, secured expeditiously after due process of law, through judges renowned for fair play, objectivity and integrity, would deter those who may be on the verge of engaging in corruption and would also have a wholesome effect on society.

#### *8. Special courts for corruption cases*

It is well known that the judicial process in India is extremely slow and that there is an unconscionable backlog of pending cases. The trial of corruption cases takes an inordinately long time, often several years! During the period of pendency, witnesses die or become hostile and important documents get lost. In recent years, very few important corruption cases have reached the stage of final judgement.

Swift punishment is an essential part of the corruption control mechanism. The deterring effect is lost if the corruption cases drag on and on endlessly. It is, therefore, suggested that in respect of cases against high level 'public servants' (which would include MPs and ministers as well as members of all-India services), special courts staffed with judges of high status, should be established which should be able to pursue each case from day to day until completion.

#### **Need for National Consensus**

Clearly, the country now needs to make a new beginning, this time on the basis of an ethics-based programme as proposed earlier. The first step forward must necessarily be the promotion of an honest and open national debate and consensus, not only among the political leaders but also, most importantly, among the people on the urgent necessity of fighting the demon of corruption and also on the methods of waging this battle. The consent of the common people of India who are at the receiving end of corruption should be readily forthcoming because they would benefit most from an administration based on ethical principles. But special efforts would need to be made to secure the assent of the following segments of the population:

1. Political leaders including concerned central cabinet ministers, chief ministers of states and presidents of all political parties;
2. Editors of leading newspapers and senior political commentators;
3. Bureaucrats;
4. Businessmen and industrialists;
5. Professional classes such as educationalists, lawyers, doctors, scientists, technical specialists, chartered accountants, etc.

A National Convention on Ethics in Government large enough in terms of numbers to include all the top leaders of each segment and yet compact enough to enable meaningful discussion and a satisfactory conclusion, could be convened by the Central Vigilance Commissioner under the presidentship of the prime minister. The total number of invitees would need to be limited to no more than 500.

The success of the proposed National Convention would depend to a very large extent on the care and thoughtfulness with which it is prepared. The following documentation, *inter alia*, would need to be presented to focus discussion:

1. First, a document narrating truthfully and fearlessly the present state of corruption in the country, the damage which it is causing and the likely scenario of the not too distant future when thugs, criminals and mafias would take complete control, destroying democracy and liberty.
2. Second, another document narrating the benefits which would accrue to all sections of the people if the administration of the country in all aspects, including the legislative, executive and judicial, were based strictly on ethical principles and picturing a possible scenario of the country within 2 to 3 decades in which there would be no Indians below the poverty line, none without the basic necessities of life, in which advanced agriculture and industry, supported by vastly improved and 'state-of-the-art' infrastructural facilities, would result in increasing prosperity, and in which the society would be anchored with moral values.
3. Third, a document containing a comprehensive narration of the 8-point programme proposed earlier for combating corruption.
4. Fourth, a document giving the outlines of a 10-year time-bound programme for the relief of millions of people living in the rural and urban areas in conditions of absolute poverty and distress, incorporating, *inter alia*, the following:

- (i) Specific proposals for providing in each village
  - (a) clean drinking water;
  - (b) adequate sanitary facilities;
  - (c) help for improving rural housing;
  - (d) a functioning medical dispensary; and
  - (e) a functioning school for primary education.
- (ii) Specific proposals for providing to all poor people living in urban areas
  - (a) inexpensive housing colonies with appropriate sanitary facilities and running water connections, to be constructed by cooperative societies in suburban areas;
  - (b) one functioning school for primary education and one functioning dispensary for each housing colony; and
  - (c) public transport facilities between these colonies and the nearest city centre.

The documentation just suggested for the proposed National Convention on Ethics would demonstrate to the people of India that the purpose in view is not only combating corruption but also utilizing the benefits resulting therefrom to give a better life to the poor. There can be nothing more ethical than fighting the evil of poverty.

The proposed documentation would provide an adequate basis for informed and focused discussion at the proposed National Convention on Ethics.

It should be evident by now that a national endeavour by all sections of Indian society is essential for combating and destroying the stalking demon of corruption. If that is not done soon, that demon will destroy the freedom of our people. As Edmund Burke wrote in a letter to the Sheriffs of Bristol in 1777, 'Among a people generally corrupt, liberty cannot long exist.'

The country and its people are not too far away from that situation. Time for a new approach is now. It is time of convening a National Convention on Ethics in Government and for a debate in full view of television cameras so that the people of India may see for themselves how their leaders deal with India's internal enemy number 1—corruption. And if the proposed 8-point programme, with any appropriate modifications, is adopted by the Convention, it could become 'The People's Charter for Ethics in National Polity', to be implemented and enforced in accordance with the common will of the people of India.

#### ENDNOTES

1. Gertrude Himmelfarb, *Lord Acton—A Study in Conscience and Politics*, Institute for Contemporary Studies, San Francisco, California, 1993, p. 51.
2. William G. Torpay, *Federal Executive Branch Ethics*, W.G. Torpay, Alexandria, Virginia, USA, 1990, p. 11.
3. Ibid., p. 12.
4. Ibid., p. 15.
5. In 1994, UK Government appointed a top-level body called, 'The Committee on Standards in Public life'. This Committee has come to be known as the 'Nolan Committee'. In 1997, it submitted a report recommending 'The Seven Principles of Public Life' as quoted in the book.
6. *Ministerial Code—A Code of Conduct and Guidance on Procedures for Ministers*, Cabinet Office, London, UK, July 1997.
7. *A Guide on Key Elements of Ministerial Responsibility*, Prime Minister, Government Division, Department of the Prime Minister and Cabinet, Canberra, ACT, April 1996.

## **CHAPTER 12**

### *Towards an Ethics-based Society*

For combating ubiquitously pervasive corruption, efforts to promote ethics in the polity will need to be supplemented by a concomitant endeavour to reconnect people in all walks of life to the commonly recognized ethical values. This will in no way conflict with the fundamental concept of genuine secularism. In fact, if this task is undertaken with sincerity, honesty and transparency, it will result in strengthening the secular character of the State, in promoting cohesiveness and integrity in society and in generating a common will to fight corruption. In this connection let us look first at the following provisions of the Constitution of India which enshrine the concept of secularism.

#### **1. Preamble**

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all citizens:  
JUSTICE, social, economic and political;  
LIBERTY of thought, expression, belief, faith and worship;  
EQUALITY of status and opportunity, and to promote among them all;  
FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;  
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

#### **2. Article 14. Equality before law**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

3. Article 15. Prohibition of discrimination on ground of religion, race, caste, sex or place of birth
  - (1) The State shall not discriminate against any citizen on ground only of religion, race, caste, sex or place of birth or any of them.
  - (2) No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition.
4. Article 16. Equality of opportunity in matters of public employment
  - (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
  - (2) No citizen shall, on ground only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state.
5. Article 25. Freedom of conscience and free profession, practice and propagation of religion
  - (1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
6. Article 29. Protection of interests of minorities
  - (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
  - (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.
7. Article 30. Right of minorities to establish and administer educational institutions
  - (1) All minorities, whether based on religions or language, shall have the right to establish and administer educational institutions of their choice.
  - (2) In making any law providing for the compulsory acquisition of any property of any educational institution established

- and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.
- (3) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on language or religion.

Taken together, these constitutional provisions (i) establish a secular State; (ii) forbid any discrimination by the State on grounds, inter alia, of religion; (iii) entitle all persons to freedom of conscience and the right freely to profess, practice and propagate religion; and (iv) confer on the minorities the right to conserve their culture as well as to establish and administer their educational institutions.

These are fundamental rights, essential and vital for civilized existence in any democratic society and much more so in a multi-religious and multi-cultural society as presently exists in India. But while from the commencement of the Constitution in 1950 they provided the much needed safety assurance to the minorities, especially religious minorities, they tended, in the absence of any coalescing element, to sustain and nurture the pre-partition feeling of 'separateness' whereas an essential need of the years following the partition of the country and the attainment of Independence was the simultaneous generation of a new spirit of mutual understanding and acceptance and the gradual creation of a growing thread of unity in the richness of cultural and religious diversity. That was not done and after Mahatma Gandhi's demise no sustained effort was made to heal the wounds of the past and to promote harmony among the communities. Instead, the political parties took full advantage of the situation and indulged in the creation of minority 'vote banks' by cleverly manipulating the 'separate identity' concept. They did not find it politically convenient to talk of a new India comprising one united people and one nation with constitutional safeguards for complete religious and cultural freedom for all persons, especially minorities.

What about the minorities? Have they benefited in any tangible manner from their status as an important and sought after vote bank? The answer is a clear no. The relative share of minorities in employment opportunities and in commercial, industrial and business activities of the country has dwindled over the years. The politics of

'separateness' rather than of cohesion, pursued ever since Independence by political parties, has resulted in religious fundamentalism and divisiveness all around. Is there a united Indian nation today? No. In the United States of America, there are people of almost every conceivable religious denomination and of numerous racial origins. And yet they all pride themselves in being just Americans. Even after Independence, India has developed into a conglomeration of a number of religious communities and linguistic groups. Different individuals are identified as Hindus of one caste or another or as Muslims or Sikhs or Christians or Parsis. Alternatively, they are recognized as Punjabis or Biharis or Bengalis or Maharashtrians or Tamilians or Telugus or as denizens of other states. How very beautiful would it be if they all identified themselves as just Indians.

Furthermore, when religion was treated constitutionally, and rightly so, as a private matter for each individual, no anchor was left for providing moral or ethical restraint to the activities of the governmental administration or the society. The concepts of right and wrong which have been the basic features of Indian life since the earliest days of recorded human history, have been abandoned over the years in favour of amorality. Priorities have changed completely and people everywhere think of the self first and then of the family, relatives and the community. Except during war-like situations very, very few even think of national interest.

When India became Independent, efforts could and should have been made to create, in course of time, a new cohesive nation by imparting ethics-based education to the children of all communities who would constitute the citizens of the future. Ethics is distinct from religion. The former comprises, *inter alia*, values such as speaking the truth, respecting all people, especially elders and teachers, abiding by the laws and civic codes of behaviour and entertaining as well as displaying with complete and transparent sincerity, equal respect for all religions, etc. The tragic truth is that Independent India has not propounded any nation-building, comprehensive educational policy. No sustained effort has been made by any government to implement the following Directive Principle of State Policy incorporated in the Constitution of India:

#### 45. Provision of free and compulsory education for children

The State shall endeavour to provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

If this clear, specific and time-bound constitutional directive had been acted upon from the commencement of the Constitution in 1950, there would be no illiteracy in India today (a large part of the population is still illiterate!), there would have been no exploitation of children, there would have been a much greater empowerment of women, there would have been a much greater voluntary control on the growth of population, the democratic process would have been greatly strengthened, the life of poor people, especially in rural areas would have improved perceptibly and a new nation of ethically educated, patriotic Indians comprising all communities would have emerged. Why was this vital task not undertaken? Was it because of the lack of resources? The answer must be a clear No. If newly Independent India had given the highest priority, from the beginning, to a programme of compulsory education for children, the bulk of requisite resources could have been found from within the country. As Dr Amartya Sen, the Nobel Laureate economist, has repeatedly stated, there could never have been a problem of financial constraint with respect to the education of children. Moreover if needed, the United Nations as well as many developed democratic countries would have been delighted to provide adequate supplementary financial support. Human resource development has always been accorded the highest priority by development of aid agencies all over the developed world. No, the problem was not the lack of resource. The problem was inadequate attention to certain basic issues in the management of the affairs of the country.

Let us leave the sad story aside and turn to a heartening development in 1976. In 1976, by an amendment, which came into effect on 3 January 1997, the following new provision was inserted in the Constitution of India:

#### Part IV A Fundamental Duties

##### 51A. Fundamental duties

It shall be the duty of every citizen of India

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) To uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;

- (e) to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

This new Article contains excellent principles. But as it was adopted during the period of Emergency, when all fundamental rights guaranteed by the Constitution had been suspended, the impact of the new Article prescribing fundamental duties has been negligible.

The phenomenal growth of corruption among the political class and the bureaucracy during the preceding decades has had a devastating effect on the society. Spiritual values and a caring culture which had governed human relationships in India for ages have been replaced in recent times by gross materialism. Barring exceptions, Indians have become heartlessly selfish and egoistical. Pursuit of money by any means, fair or foul, has become the sole preoccupation. There is no respect for the rule of law. Even the most educated and materially well-placed people think nothing of circumventing rules and regulations. The behaviour towards each other has become coarse and even arrogant, resulting in general incivility in society. The evils of Western society, not its virtues, have swamped the urban, middle and upper classes. Indians are adopting only the Western ways of consumerism and the unstable man-woman relationship but they are not emulating the innumerable qualities which are the hallmark of the Occident—pursuit of excellence, truthfulness, reliability, punctuality, dedicated performance of duties, a high sense of responsibility and accountability, adherence to business standards and ethics, absolute conformity to laws, rules and regulations, civil behaviour towards each other, due consideration for senior citizens, etc. These are the sine qua non of a good citizenry which creates and sustains a good democracy.

One of the greatest needs of the country today is the regeneration of the people by promoting an ethics-based society with

voluntary adherence to civic values and genuine respect for the rule of law. An essential first step in this direction would be the development of two national codes, one for school-going children and the other for the citizens of the country.

The national code for children should aim at their development into disciplined, responsible, honest and law-abiding citizens of tomorrow. The code should inculcate in the children national pride, respect for the national anthem and the national flag, the desire for strict adherence to truthfulness and good behaviour in all circumstances, respect for all faiths and communities, respect for their parents as well as for all elders and teachers, the consciousness of belonging to one human family, the awareness of one world environment, dedication to studies, meticulous attention to cleanliness, etc.

The national code for citizens should incorporate, *inter alia*, standards for the pursuit of excellence in the performance of one's duties in all walks of life, the promotion of secularism, inter-community harmony as well as ethical, moral, law-abiding and civic behaviour in public life.

Article 51 of the Constitution of India which lays down the duties of all Indian citizens should be incorporated into the national code for citizens.

A small group comprising learned, respected and eminent people and persons drawn from all communities can prepare these two codes within a reasonable period of time. They can draw inspiration from India's rich and composite heritage in this regard, as well as from other appropriate sources in the world.

The national code for children, if approved by the ministers of education of all states and the central minister responsible for education, could be made a compulsory part of the curriculum of school education throughout the country.

The national code for citizens, if approved by the chief ministers of all states and the prime minister of the country, could be recommended to all citizens of the country and be promoted and propagated by the national media.

The purpose of these codes would be to generate some new thinking on the part of all the people and to stem, if possible, the current drift towards lawlessness and chaos. If nothing tangible and effective is attempted now, complete mafia rule is no more than one or two general elections away.

### Postscript

For the concept of genuine secularism, inspiration can be drawn from

the XII rock edict of Emperor Ashoka inscribed in 250 BC, quoted below:

His Sacred Majesty, the King does reverence to men of all sects, whether ascetics or householders, by gifts and various forms of reverence. His Sacred Majesty, however, cares not so much for gifts or external reverence as that there should be a growth in the essence of the matter in all various forms, but the root of it is restraint of speech, to wit, a man must not do reverence to his own sect or disparage that of another without reason. Depreciation should be for specific reasons only; for the sects of other people all deserve reverence for one reason or another.

. . . He who does reverence to his own sect, while disparaging the sects of others wholly from attachment to his own, with intent to enhance the glory of his own sect, in reality by such conduct inflicts the severest injury on his own sect. Concord, therefore, is meritorious, to wit, hearkening willingly to the Law of Piety, as accepted by other people.<sup>1</sup>

The sincere acceptance by all Indians—Hindus, Muslims, Christians, Sikhs, Buddhists, Jains, Parsis and others, of the noble principle of secularism defined by Emperor Ashoka and its expression and practice in every day life and in society will usher in true inter-communal amity.

Religion is a purely personal matter and its invocation should be limited to religious matters only. With regard to all other aspects of life relating to the state, the law of the land, the society, employment opportunities, business, industry, trade and commerce, sports, music or entertainment, etc., every Indian should have absolute equality of opportunity. At a programme of classical Indian music, no one worries about the religion of the *Ustad* playing the sitar or sarod or veena or tabla. The entire group generally comprising persons of different religions, plays in complete harmony, every player smiling and nodding happily, enjoying tunes created by their joint endeavour. That is how all of India should aspire to participate in all aspects of its national life.

All this requires a new mindset which is completely free of any trace of communalism. If we begin with the children today, we will have a nation of Indians within the next few years of this millennium. This is the wonderful opportunity which beckons us all.

#### ENDNOTES

1. Aldous Huxley, *Perennial Philosophy*, HarperCollins, New York, 1990, p. 199.

## **CHAPTER 13**

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### ***Towards Ethics in Business and Industry***

The bulk of corruption in India originates in the realm of business and industry. Ever since the days of 'license, permit and quota raj', and the concomitant need of governmental rulers for black money to finance the activities of political parties, leaders of nearly all organizations engaged in commercial, industrial or other similar activities, have had to resort to corruption in order to promote their business interests and, at the same time, to keep the governing class satisfied and happy. Over the years, important business houses have made consummate arrangements through their contact men posted in New Delhi and state capitals, for the discreet disbursement of cash funds as well as for lavish hospitality in five star hotels or in luxurious farm houses. The beneficiaries of such largesses are persons holding key positions in the political sector as well as those occupying crucial assignments in the administrative, executive and investigative branches of government.

Chandan Mitra observes:

Arguably the most corrupting influence on politics is exerted by business and industry. The unbridled pursuit of greater profit or influence has, from the earliest years of capitalist enterprise, led to the steady abandonment of ethics in the conduct of business. The businessman's need to tailor official policy to suit his pursuit, or create obstacles in the way of a rival's, leads to the effort to procure politicians who, in turn, seek to corrupt the bureaucracy to further their joint interests. The resultant businessman-politician-bureaucrat trinity, often assisted by crime syndicates, is what constitutes the mainstay of corruption in modern society, exerting a negative demonstration effect across the board—down to the examiner on a train, the traffic constable at a road intersection, or anyone else for that

matter in the remotest position of authority as far as India's case is concerned.<sup>1</sup>

These are the ways in which businessmen and industrialists have promoted their legitimate and, frequently, illegitimate business interests and have thus successfully built up huge business empires as well as large fortunes. In order to accomplish these tasks, they have been diverting substantial sums of money to what is known in common parlance as 'Account No 2'. The company accounts are usually 'fudged' by the inclusion of 'created' items of expenditure and the suppression of real income, thereby generating large amounts of black money, totally outside the tax net. Chartered accountants do not worry unduly about such matters and are happy to provide unqualified certificates as company auditors. And, of course, the officers of the concerned revenue departments are always taken care of generously. The end result is that the public exchequer loses billions of rupees which would have been payable as taxes and duties and which, if collected, would have been available for the welfare of the poor masses.

The same is the picture in international trade and commerce. By under-invoicing exports and, where it is beneficial, over-invoicing imports, the leaders of the business organizations concerned are able to divert large foreign currency funds into coded Swiss Bank accounts which, reportedly, add up to billions of dollars now.

Some leading businessmen with contacts in high government circles also get involved as intermediaries in 'grand corruption' which occurs when government ministries and public sector enterprises make purchases of armaments, sophisticated machinery and equipment, etc., involving huge sums of money, sometimes involving billions of dollars. A commission of 5 per cent for the businessmen and a like percentage for the decision makers would add up to quite a few million dollars in each such transaction.

What is even more disturbing is the frequently expressed belief of knowledgeable persons in the realm of business and industry that some among them who are at the top, have acquired, through their largesses, a determining influence in key segments of the governmental decision-making machinery, and further that they use it unhesitatingly to their advantage and to the disadvantage of their business rivals.

This then is the picture of business in India today—seething and pervasive corruption, a huge black money economy cohabiting and intertwined with white money economy and large slush funds corrupting the ruling class. The picture is disturbing and there seems to be no significant move yet on the part of organizations of business

and industry to initiate a process of reform. However, a heartening new development is the emergence of new leaders such as Mr Narayana Murthy in the corporate sector who are determined to adhere to, and promote, the highest standards of integrity in the business sector of the country.

In the developed world, a great deal of thought has been given in recent years to the question of corruption in national and international business transactions. There is now a general realization that competition on the basis of bribery would cause incalculable damage, sooner or later, to every business organization. In order to eliminate corrupt practices, several steps have been taken. Many companies have promulgated their own management codes based on ethical principles. They have also appointed ethics officers to ensure compliance with such codes. Numerous companies are now asking their company auditors to conduct 'ethics audit' in order to report upon the propriety of each transaction. The United States of America has gone further. Under the Foreign Corrupt Practices Act of 1977, as amended in 1988, payment of bribes by US companies even in foreign countries is forbidden and is indeed punishable as a crime.

The Foreign Corrupt Practices Act of the United States was a consequence of the disclosure, in Congressional hearings, that major US corporations such as Lockheed, United Brands, Northrup and Gulf had used bribes to secure foreign orders. The bribe takers included a Japanese prime minister, an Italian defence minister, a president of Honduras and Prince Bernhard of the Netherlands.

The FCPA prohibits payments to a foreign official, a foreign political party or a candidate for foreign political office and governs both civil servants and elected officials. It applies to payments intended to influence official actions and decisions in order to obtain or retain business.<sup>2</sup>

Despite pervasive corruption among the business class in India and the existence of a vast black economy in the country alongside the white, there has been, barring sporadic discussions at some fora, no sustained effort to evolve any concrete measures to combat this evil.

The Confederation of Indian Industry (CII) published in April 1998 a document entitled *Desirable Corporate Governance—A Code*. In a foreword to this document, the then president of CII explained its purpose:

This initiative by CII flowed from public concerns regarding the protection of investor interest, especially the small investor; the promotion of transparency within business and industry; the need

to move towards international standards in terms of disclosure of information by the corporate sector and, through all of this, to develop a high level of public confidence in business and industry.' This is undoubtedly a welcome development which needs to be applauded. Transparency and higher standards of management are needed as much in business and industry as in governmental administration.

The Corporate Governance Code refers also to the need for a Board level Audit Committee, comprising at least 3 non-executive Directors, to interact with statutory auditors and internal auditors 'to ascertain the quality and veracity of the company's accounts as well as the capability of the auditors themselves'. There is another recommendation which calls for 'a compliance certificate' signed by the Chief Executive Officer and the Chief Finance Officer, affirming that the management was 'responsible for the preparation, integrity and fair presentation of the financial statements and information in the Annual Report. . . .'

These recommendations are good in themselves and constitute a movement towards the concept of a 'propriety' check of all transactions. But they do not add up to a so-called 'ethics audit'. In fact, the word 'ethics' does not appear at all in any of the CII recommendations.

It is now time for the CII to establish a committee on ethics in business to examine the present state of corruption in business and industry and to suggest specific measures for fighting this menace. The objective must be the elimination of black money from the economy of the country and the strict observance of ethical standards in future, as is now being done at the international level. Any step which needs to be taken by the government of the country to encourage and support the concept of 'ethics in business' should also be spelt out in detail.

Clearly, if there is to be an effort at the national level to fight corruption in all its forms, the business class will need to be an integral part of this endeavour. It seems that a dialogue between the political leaders of the government at the highest level and the heads of national business and industry organizations such as CII, FICCI, ASSOCHAM and others with the following items on the agenda might result in some concrete action:

1. Integrity in management—the formulation and adoption of ethics-based codes of conduct, both for managers as well as for 'owners', i.e. majority of sole shareholders in the private sector who effectively control the day-to-day functioning of their companies, and ministers as well as MPs who represent the people

as owners of public sector undertakings, specifically prohibiting them from using the resources of their enterprises for personal gain or advantage.

2. Appointment of ethics officer to ensure the effective implementation of the codes of conduct.
3. Integrity in the maintenance of accounts with an 'ethics audit' of all transactions by the company auditors involving a scrutiny not only for appropriate sanction for each item but also for its propriety with reference to ethical standards as is being done by many leading business organizations in Europe and America.
4. The voluntary payment of all due taxes and duties well in time.

A similar dialogue with the representatives of the Institute of Chartered Accountants of India would be useful in the development of stricter standards for the conduct of audit of company accounts, especially from the ethical angle. The Institute of Chartered Accountants would be able to advise also whether any strengthening of the Companies Act is required for the achievement of the desired results.

The Securities and Exchange Board of India would also need to be invited to participate in the country's endeavours to promote ethics in business.

In today's world of a globalized economy, Indian business and industry would have to conform to global standards of conduct in all respects. The government on its part would need to listen carefully to requests for greater liberalization, simpler tax structure with reduced levels and enhanced transparency in governance.

An ongoing and friendly dialogue at the highest level between the government and industry would seem to provide the right way forward for securing the desired results. And if a new partnership can be developed on the basis of integrity, enough resources may be mobilized to provide the much-needed and long-delayed basic necessities of life to the millions of farmers and workers of this billion strong country. Would it not be enormously satisfying for all Indians, including the rich, if, regardless of caste, creed, community, religion, language, profession and station in life, they could come together to create a new India in the new millennium—an India which is fair to every citizen.

#### ENDNOTES

1. Chandan Mitra, *The Corrupt Society*, Viking, New Delhi, 1998, pp. 18, 19.
2. George Moody-Stuart, *Grand Corruption*, Worldview Publishing, Oxford, UK, 1997, pp. 63, 64.

### *Action at the International Level for Combating Corruption*

There is presently widespread and growing concern about the effect of corruption on the economic development plans of almost all third world countries. A large part of the funds allocated through national budgets or provided by donor countries or agencies, for poverty alleviation programmes, is being misappropriated by dishonest political leaders and bureaucrats holding important positions of power in government. The costs of important projects for industrial reconstruction get unduly inflated and the level of actual delivery of welfare schemes goes down to as low as 15 per cent of what is funded because of demand for large bribes and commissions at every stage.

Corrupt heads of state and government as well as other officials are known to have diverted huge amounts of ill-gotten money to their personal coded Swiss Bank accounts. The amounts involved in such transactions are truly mind-boggling. This is what Peter John Perry says on the subject:<sup>1</sup>

At the upper end of the scale estimates in billions are not uncommon. Thus Cockcroft (1990, 180) connects the build up of \$ 20 billion in African citizens' overseas assets between 1974 and 1985, a period of escalating public debt, with expanding corruption. More recently Ayittey (1990, 235) alleges that \$ 15 billion flees Africa for overseas banks each year, a larger sum than annual foreign aid, and (1990, 235) that Kenyans' overseas assets at \$ 5 billion exceed the country's overseas debt by \$ 1 billion. Eigen quotes \$ 20 billion for African leaders' deposits in Swiss Banks in the early 1990s but goes on to comment that the overall and ongoing cost of bad decisions arising from corruption is probably considerably larger (1993, 9). It has been noted (Heidenheimer, 1989, 786) that for the period 1952-61 there was a rough equivalence between the fortunes made by Latin

American Presidents and inflow of aid. In Nigeria in 1992 an estimated \$ 3 billion vanished from the public accounts, a large part of it to corruption, an estimated 10 per cent of Gross Domestic Product (*The Economist*, 5 March 1994). Clearly corruption has a macro-economic and thus macro-geographic significance. At the level of the individual enterprise Williams (1987, 99) cites £ 10 million in the 1980s for a relatively small Nigerian rice company.

In international business deals for the purchase of armaments or highly sophisticated technical machinery and equipments worth billions of dollars, commissions aggregating to a few million dollars in each case are demanded by ministers and officials in the importing developing country from manufacturers and suppliers who are generally located in the developed countries. The slush funds thus generated are deposited in safe coded accounts abroad, often in the name of 'dummy' companies to avoid detection.

There is corruption in developed countries as well but, in relative terms, it is marginal and it does not affect the day-to-day life of the common people. In developing countries, corruption is pervasive and frustrates all efforts to provide relief to many millions of common people who, even today, are suffering from abysmal and degrading poverty. This is how James Gustave Speth, Administrator of the United Nations Development Programme, describes the present situation of the poor, 55 years after the victorious Allies declared their firm resolve to create a brave new world 'free of want':

*Among the 4.4 billion people in developing countries around the world, three-fifth live in communities lacking basic sanitation; one-third go without safe drinking water; one-quarter lack adequate housing; one-fifth are undernourished, and 1.3 billion live on less than \$ 1 a day. Nearly one-third of the people in the poorest countries, mostly in sub-Saharan Africa, can expect to die by age 40.<sup>2</sup> (Emphasis added)*

Many leaders in the rich, developed countries have an uneasy conscience about the present condition of the poor of the world, just described. Four of them, Eveline Herfkens, the Dutch Minister for Development Cooperation, Hilde F. Johnson, the Norwegian Minister for International Development and Human Rights, Clare Short, the British Secretary of State for International Development and Wieczorek Zeul, the German Minister for Development Cooperation, troubled by the prevailing poverty and corruption in the developing world, met in the summer of 1999 at Utstein Abbey in western

Norway and decided together to do something decisive about these evils. At the end of their deliberations they adopted the following declaration:

*The great moral problem of our time is poverty. The problem is getting worse. The implication of the simple truth in these two sentences is as clear as it is disturbing for policymakers.*

*We simply cannot claim success as international politicians if we cannot make progress in addressing poverty.*

This vision of the truth about our world today brought the four of us together at Utstein Abbey in Western Norway recently. As ministers for international development, we met to discuss how to make more progress in the fight against poverty.

We do not on our own possess the power to reverse current poverty trends. But we share the responsibility for building stronger coalitions for change.

*We focused particularly on the need to improve coordination among donors and untie our aid, support the fight against corruption, deliver on the promise of deeper debt relief, and strengthen the ability and resolve of the international community to respond to conflicts and crises.*

Many of the poorest countries are weighed down with too many donors and in preparing reports to justify use of aid funds. Donors too often determine priorities and tie aid to the purchasing of goods and services from their countries.

We should assist poor countries and not undermine their efforts or try to run them. We must be more willing to let go and see our partners in real command of development strategies. We must give their governments and Parliaments a real chance to take charge of their politics.

The Comprehensive Development Framework proposed by World Bank could become an important catalyst for change. We are prepared to support governments wanting to adopt it.

*Corruption is a major obstacle to development whether we speak of greed-based corruption by the elites or need-based corruption among the low-wage employees. Corruption undermines democracy and destroys the credibility of government. Corruption is stealing from the poor.*

*The battle against corruption must be fought in all countries. We are determined to support the efforts of our partner countries and to continue the open and direct dialogue we have with many of them. We will support public sector reform and help strengthen control systems.*

At the same time, we need to address the debt crisis in the poor countries with urgency. The Group of Seven's debt relief initiative

presented at the recent Cologne summit is very good news. By implementing the G-7 proposal, we will enable poor debtor countries to allocate more funds for poverty reduction.

However, the initiative's success depends on two critical factors. First is the collective ability of all bilateral and multilateral creditors to secure sufficient financing, based on transparent and fair burden-sharing. Second is the ability to transform debt relief into real poverty reduction and sustainable development.

We strongly encourage all creditor countries to seek ways to strengthen exit solutions provided by the Paris Club. One obvious and important contribution is to cancel remaining official development assistance debt owed by the poorest countries pursuing effective policies.

Other options include forgiveness of commercial credits on top of multilateral agreements or making additional contributions to the HIPC trust fund which supports debt relief by multinational institutions.

We urge the Paris Club to adopt the proposal to increase its level of debt reductions beyond 90 per cent when necessary in order to achieve a real exit from the debt trap.

Fighting the poverty menace requires imaginative thinking and tough action not only on debt but also on issues such as trade and development financing. Stronger efforts are needed to draw private investment to the most needy countries.

We will encourage more public-private partnerships for real-life improvement, such as the recent example provided by the World Health Organization and an international company joining hands to eradicate polio.

Official development assistance (ODA) from the OECD countries in aggregate falls far short of the internationally accepted target of 0.7 per cent of GDP. We will work together to reverse the decline in ODA. We call for a renewed commitment by all partners concerned to the international development targets, including halving the proportion of people living in absolute poverty by 2015.

One clear way for donors to show this commitment is to allocate more aid to countries that are moving in the right direction in economic policy and good governance, which includes striving for greater social equity, and are thus demonstrating to our public the effectiveness of aid in the sustainable reduction of poverty.

It is vital to strengthen the multilateral system. It is essential that the United Nations be supported in fulfilling its role, particularly in addressing conflicts and crises around the world. We call on all parties to reaffirm support for the United Nations and the development

banks, both through fulfilment of financial obligations, in setting policy priorities, and through stronger international coordination.

Closer coordination among those agencies providing humanitarian assistance and those providing long-term development cooperation is required.

*Poverty is a moral issue but also a root cause of many global problems. As ministers for development, our most immediate challenge is to build the broadest possible understanding at home and abroad, as we enter the 21st century, that it can and must be eradicated.*

*We call for genuine partnership, first and foremost with developing countries, but also with action-oriented groups in civil society, the private sector and the best minds in the academic community. There is no need more urgent, no cause more noble. No responsibility weighs more on us.<sup>3</sup>* (Emphasis added).

In the preceding noble declaration motivated by a call of conscience, the ministers have provided the details of their strategy for combatting poverty. Although they did indicate their resolve to fight corruption as well, no specific measures have been indicated on this subject. It needs to be stressed, therefore, that programmes for the eradication of poverty will succeed only if there is a simultaneous battle against corruption. Enlarged development assistance and effective debt-relief measures are crucially important but it would be in the real interest of developing countries to link them to honest, efficient, transparent and accountable governmental administration.

It would be appropriate at this point to invite attention to the following well-meant warning administered in 1994 by the then British Minister for Overseas Development, Baroness Chalker:

Where a government wants aid to help with a transformation to democracy, to strengthen its institutions, to weed out corruption and incompetence, we will give it. But where a government turns its back on democracy, ignores accountability, flouts human rights and allows corruption to flourish, our aid will be of a humanitarian nature to help people in real need. No taxpayer in any donor country should be asked to contribute to the Swiss Bank accounts of corrupt Third World politicians.<sup>4</sup>

No one can legitimately quarrel with this statement. However, one important issue does arise in this connection. Is there anything which can be done by the aid-giving countries collectively to persuade the Swiss authorities to amend their bank secrecy statutes in order to

bring the Swiss banking practices in line with those in other European countries or in the United States of America? And the same question arises with respect to other 'tax havens' too. A reform of this kind at the initiative of the developed countries would be of the greatest benefit to the billions of people in the developing world.

There are two further suggestions. First, while providing enhanced assistance, the donors must give the highest priority to time-bound and well-monitored programmes for the provision of such basic necessities as clean drinking water, adequate sanitation facilities, functioning medical dispensaries, schools for primary education and improvement in rural housing. Second, the four ministers responsible for international aid have set a target date of 2015 for halving the number of people who are presently living in conditions of 'absolute poverty'. When, as indicated by them, they meet again in the new millennium, to review progress, possibly with the participation of their colleagues from other donor countries, they might consider another target date for the remaining half—say the year 2025.

While at this point, one might express the hope that just as the ministers of the Netherlands, Norway, Great Britain and Germany have been motivated by their conscience to combat poverty, so too would the political leaders, bureaucrats and businessmen of developing countries feel impelled, equally genuinely, to eschew and indeed to fight the pernicious evil of corruption.

Let us now turn to several other initiatives that have been taken in recent years at the international level to combat the evil of corruption. The Organization for Economic Cooperation and Development (OECD), one of the most important and powerful inter-governmental bodies in the world, adopted a comprehensive recommendation on 27 May 1994, calling upon its member countries to take 'effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions'. In support of this recommendation, the OECD governments made the following observations:

*Bribery presents moral and political challenges and, in addition, exacts a heavy economic cost, hindering the development of international trade and investment by raising transaction costs and distorting the operation of free markets. It is especially damaging to developing countries since it diverts needed assistance and increases the cost of that assistance.*

The recommendation proposed 'concrete and meaningful steps' and appealed to non-member countries to join with OECD members in their efforts to eliminate bribery in international business transactions. It also proposed a follow-up mechanism to monitor implementation.

After reviewing progress in the implementation of the 1994 recommendation, the OECD Council adopted a new instrument entitled Revised Recommendation of the Council on Combating Bribery in International Business Transactions on 23 May 1997. This recommendation called upon member States, *inter alia*, to

1. take effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions, and
2. criminalize bribery of foreign public officials in an effective and coordinated manner.

The OECD Council decided at the same time 'to open negotiations promptly on an international convention to criminalize bribery in conformity with the agreed common elements, the treaty to be open for signature by the end of 1997, with a view to its entry into force twelve months thereafter.'

This showed the determination and the urgency with which OECD governments wanted to deal with the evil of corruption in international business transactions. Further action followed quickly. A negotiating conference of member states was convened in November 1997 and a new treaty instrument was adopted which dealt comprehensively with the phenomenon of bribery in international business. The text of this globally important instrument and its attachment is given below.

### Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Adopted by the Negotiation Conference on 21 November 1997

#### Preamble

##### **The Parties,**

*Considering* that bribery is a widespread phenomenon in international business transactions, including trade and investment, which raises serious moral and political concerns, undermines good

governance and economic development, and distorts international competitive conditions;

*Considering* that all countries share a responsibility to combat bribery in international business transactions;

*Having regard* to the Revised Recommendation on Combating Bribery in International Business Transactions, adopted by the Council of the Organization for Economic Cooperation and Development (OECD) on 23 May 1997, C(97) 123 FINAL, which, *inter alia*, called for effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions, in particular the prompt criminalisation of such bribery in an effective and coordinated manner and in conformity with the agreed common elements set out in that Recommendation and with the jurisdictional and other basic legal principles of each country;

*Welcoming* other recent developments which further advance international understanding and cooperation in combating bribery of public officials, including actions of the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, the Organization of American States, the Council of Europe and the European Union;

*Welcoming* the efforts of companies, business organizations and trade unions as well as other non-governmental organizations to combat bribery;

*Recognizing* the role of governments in the prevention of solicitation of bribes from individuals and enterprises in international business transactions;

*Recognizing* that achieving progress in this field requires not only efforts on a national level but also multilateral cooperation, monitoring and follow-up;

*Recognizing* that achieving equivalence among the measures to be taken by the Parties is an essential object and purpose of the Convention, which requires that the Convention be ratified without derogations affecting this equivalence;

*Have agreed as follows:*

## Article I

### The Offense of Bribery of Foreign Public Officials

1. Each party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person

intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.

2. Each party shall take any measures necessary to establish that complicity in, including incitement, aiding and abetting, or authorization of an act of bribery of a foreign public official shall be a criminal offence. Attempt and conspiracy to bribe a foreign public official shall be criminal offences to the same extent as attempt and conspiracy to bribe a public official of the party.

3. The offences set out in paragraphs 1 and 2 above are hereinafter referred to as 'bribery of a foreign public official'.

4. For the purpose of this Convention:

- (a) 'foreign public official' means any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organization;
- (b) 'foreign country' includes all levels and sub-divisions of government, from national to local;
- (c) 'act or refrain from action in relation to the performance of official duties' includes any use of the public official's position, whether or not within the official's authorized competence.

## Article 2

### Responsibility of Legal Persons

Each party shall take such measures as may be necessary, in accordance with its legal principles, to establish the liability of legal persons for the bribery of a foreign public official.

## Article 3

### Sanctions

1. The bribery of a foreign public official shall be punished by

effective, proportionate and dissuasive criminal penalties. The range of penalties shall be comparable to that applicable to the bribery of the party's own public officials and shall, in the case of natural persons, include deprivation of liberty sufficient to enable effective mutual legal assistance and extradition.

2. In the event that, under the legal system of a party, criminal responsibility is not applicable to legal persons, that party shall ensure that legal persons shall be subject to effective, proportionate and dissuasive non-criminal sanctions, including monetary sanctions, for bribery of foreign public officials.
3. Each party shall take such measures as may be necessary to provide that the bribe and the proceeds of the bribery of a foreign public official, or property the value of which corresponds to that of such proceeds, are subject to seizure and confiscation or that monetary sanctions of comparable effect are applicable.
4. Each party shall consider the imposition of additional civil or administrative sanctions upon a person subject to sanctions for the bribery of a foreign public official.

#### Article 4

##### Jurisdiction

1. Each party shall take such measures as may be necessary to establish its jurisdiction over the bribery of a foreign public official when the offence is committed in whole or in part in its territory.
2. Each party which has jurisdiction to prosecute its nationals for offences committed abroad shall take such measures as may be necessary to establish its jurisdiction to do so in respect of the bribery of a foreign public official, according to the same principles.
3. When more than one party has jurisdiction over an alleged offence described in this convention, the parties involved shall, at the request of one of them, consult with a view to determining the most appropriate jurisdiction for prosecution.
4. Each party shall review whether its current basis for jurisdiction is effective in the fight against the bribery of foreign public officials and, if it is not, shall take remedial steps.

## **Article 5**

### **Enforcement**

1. Investigation and prosecution of the bribery of a foreign official shall be subject to the applicable rules and principles of each party. They shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved.

## **Article 6**

### **Statute of Limitations**

Any statute of limitations applicable to the offence of bribery of a foreign public official shall allow an adequate period of time for the investigation and prosecution of this offence.

## **Article 7**

### **Money Laundering**

Each party which has made bribery of its own public official a predicate offence for the purpose of the application of its money laundering legislation shall do so on the same terms for the bribery of a foreign public official, without regard to the place where the bribery occurred.

## **Article 8**

### **Accounting**

1. In order to combat bribery of foreign public officials effectively, each party shall take such measures as may be necessary, within the framework of its laws and regulations regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of bribing foreign public officials or of hiding such bribery.

2. Each party shall provide effective, proportionate and dissuasive civil, administrative or criminal penalties for such omissions and falsifications in respect of the books, records, accounts and financial statements of such companies.

## Article 9

### Mutual Legal Assistance

1. Each party shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another party for the purpose of criminal investigations and proceedings brought by a party concerning offences within the scope of this convention and for non-criminal proceedings within the scope of this convention brought by a party against a legal person. The requested party shall inform the requesting party, without delay, of any additional information or documents needed to support the request for assistance and, where requested of the status and outcome of the request for assistance.
2. Where a party makes mutual legal assistance conditional upon the existence of dual criminality, dual criminality shall be deemed to exist if the offence for which the assistance is sought is within the scope of this convention.
3. A party shall not decline to render mutual legal assistance for criminal matters within the scope of this convention on the ground of bank secrecy.

## Article 10

### Extradition

1. Bribery of a foreign public official shall be deemed to be included as an extraditable offence under the laws of the parties and the extradition treaties between them.
2. If a party which makes extradition conditional on the existence of an extradition treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this convention to be the legal basis for extradition in respect of the offence of bribery of a foreign public official.
3. Each party shall take any measures necessary to assure either that it can extradite its nationals or that it can prosecute its nationals for the offence of bribery of a foreign public official. A party which

declines a request to extradite a person for bribery of a foreign public official solely on the ground that the person is its national shall submit the case to its competent authorities for the purpose of prosecution.

4. Extradition for bribery of a foreign public official is subject to the conditions set out in the domestic law and applicable treaties and arrangements of each party. Where a party makes extradition conditional upon the extent of dual criminality, that condition shall be deemed to be fulfilled if the offence for which extradition is sought is within the scope of Article 1 of this convention.

## Article 11

### Responsible Authorities

For the purposes of Article 4, paragraph 3, on consultation, Article 9, on mutual assistance and Article 10, on extradition, each party shall notify to the Secretary-General of the OECD an authority or authorities responsible for making and receiving requests, which shall serve as channel of communication for these matters for that party, without prejudice to other arrangements between Parties.

## Article 12

### Monitoring and Follow-up

The parties shall cooperate in carrying out a programme of systematic follow-up to monitor and promote the full implementation of this convention. Unless otherwise decided by consensus of the parties, this shall be done in the framework of the OECD Working Group of Bribery in International Business Transactions and according to its terms of reference, or within the framework and terms of reference of any successor to its functions, and parties shall bear the costs of the programme in accordance with the rules applicable to that body.

## Article 13

### Signature and Accession

1. Until its entry into force, this convention shall be open for signature by OECD members and by non-members which have been

invited to become full participants in its Working Group on Bribery in International Business Transactions.

2. Subsequent to its entry into force, this convention shall be open to accession by any non-signatory which is a member of the OECD or has become a full participant in the Working Group on Bribery in International Business Transactions or any successor to its functions. For each such non-signatory, the convention shall enter into force on the sixtieth day following the date of deposit of its instrument of accession.

#### **Article 14**

##### **Ratification and Depositary**

1. This convention is subject to acceptance, approval or ratification by the signatories, in accordance with their respective laws.
2. Instruments of acceptance, approval, ratification or accession shall be deposited with the Secretary-General of the OECD, who shall serve as depositary of this convention.

#### **Article 15**

##### **Entry into Force**

1. This convention shall enter into force on the sixtieth day following the date upon which five of the ten countries which have the ten largest export shares set out in DAFFE/IME/BR(97)18/FINAL (annexed), and which represent by themselves at least sixty per cent of the combined total exports of those ten countries, have deposited their instruments of acceptance, approval, or ratification. For each signatory depositing its instrument after such entry into force, the convention shall enter into force on the sixtieth day after deposit of its instrument.
2. If, after 31 December 1998, the convention has not entered into force under paragraph 1 above, any signatory which has deposited its instrument of acceptance, approval or ratification may declare in writing to the depositary its readiness to accept entry into force of this convention under this paragraph 2. The convention shall enter into force for such a signatory on the sixtieth day following the date upon which such declarations have been deposited by at least two signatories. For each signatory depositing its declaration after such

entry into force, the convention shall enter into force on the sixtieth day following the date of deposit.

## Article 16

### Amendment

Any party may propose the amendment of this convention. A proposed amendment shall be submitted to the depositary which shall communicate it to the other parties at least sixty days before convening a meeting of the parties to consider the proposed amendment. An amendment adopted by consensus of the parties or by such other means as the parties may determine by consensus, shall enter into force sixty days after the deposit of a instrument of ratification, acceptance or approval by all of the parties, or in such other circumstances as may be specified by the parties at the time of adoption of the amendment.

## Article 17

### Withdrawal

A party may withdraw from this convention by submitting written notification to the depositary. Such withdrawal shall be effective one year after the date of the receipt of the notification. After withdrawal, co-operation shall continue between the parties and the party which has withdrawn all requests for assistance or extradition made before the effective date of withdrawal which remain pending.

### OECD Exports

	1990-96	1990-96	1990-96
	US \$ million	%	%
		of total OECD	of 10 largest
United States	287,118	15.9	19.7
Germany	254,746	14.1	17.5
Japan	212,665	11.8	14.6
France	138,471	7.7	9.5
United Kingdom	121,258	6.7	8.3

(Contd.)

	1990-9	1990-9	1990-9
	US \$ million	%	%
		of total OECD	of 10 largest
Italy	112,449	6.2	7.7
Canada	91,215	5.1	6.3
Korea(I)	81,364	4.5	5.6
The Netherlands	81,264	4.5	5.6
Belgium-Luxembourg	78,598	4.4	5.4
Total 10 largest	1,459,148	81.0	100
Spain	42,469	2.4	
Switzerland	40,395	2.2	
Sweden	36,710	2.0	
Mexico(I)	34,233	1.9	
Australia	27,194	1.5	
Denmark	24,145	1.3	
Austria	22,432	1.2	
Norway	21,666	1.2	
Ireland	19,217	1.1	
Finland	17,296	1.0	
Poland(1)**	12,652	0.7	
Portugal	10,801	0.6	
Turkey*	8,027	0.4	
Hungary**	6,795	0.4	
New Zealand	6,663	0.4	
Czech Republic***	6,263	0.3	
Greece*	4,606	0.3	
Iceland	949	0.1	
Total OECD	1,801,661	100	

Notes: \*1990-95; \*\*1991-96; \*\*\*1993-96

Source: OECD, (1) IMF<sup>5</sup>

This OECD contention on combating bribery of foreign public officials, 1997, came into force on 15 February, 1999, when the requisite conditions for this purpose were fulfilled.

The following provisions in this convention are worthy of special notice:

1. Bribery of foreign public officials will now be a criminal offence under the laws of ratifying OECD countries.

2. Bribing a foreign public official for that official or for a third party, directly or through intermediaries, will be a criminal offence.
3. 'Foreign public official' has been defined in wide terms so as to include persons holding legislative, administrative or judicial office of a foreign country, whether appointed or elected, and also employees of a public agency or a public enterprise or a public international organization.
4. Bribery, as defined in this convention, will need to be punished by 'effective, proportionate and dissuasive criminal penalties'.
5. Under Article 8, very high standards and strict conditions have been laid down for accounting and auditing purpose. The contents of this Article provide a very good model for India's national purposes also.
6. Parties to the convention are required to provide mutual legal assistance to the fullest extent possible. It is specifically provided that such assistance cannot be denied on the ground of bank secrecy.

This convention is a very major step for combating corruption in international business transactions and deserves to be adopted and implemented statutorily by all countries of the world and not just by OECD Member States. This will be of the greatest benefit to developing countries in their efforts to combat the menace of corruption.

The problem of corruption in governance and in business was considered in detail at the Summit of the Americas in December, 1994, when the following declaration was adopted affirming the commitment of member States to combating corruption in all aspects of public life and inviting them to cooperate with OECD governments in fighting bribery in international business transactions. The full text of this declaration is quoted below:

#### **Summit of the Americas, December 1994**

The declaration of principles agreed by the Heads of State and Government of the Americas included the following statement:

'Effective democracy requires a comprehensive attack on corruption as a factor of social disintegration and distortion of the economic system that undermines the legitimacy of political institutions.'

The Heads of State and Government also affirmed their commitment to a plan of action which included the following:

## Combating Corruption

The problem of corruption is now an issue of serious interest not only in this hemisphere, but in all regions of the world. Corruption in both the public and private sectors weakens democracy and undermines the legitimacy of governments and institutions. The modernisation of the state, including deregulation, privatization and the simplification of government procedures, reduces the opportunities for corruption. All aspects of public administration in a democracy must be transparent and open to public scrutiny.

Governments will:

- Promote open discussion of the most significant problems facing government and develop priorities for reforms needed to make government operations transparent and accountable.
- Ensure proper oversight of government functions by strengthening internal mechanisms, including investigative and enforcement capacity with respect to acts of corruption, and facilitating public access to information necessary for meaningful outside review.
- Establish conflict of interest standards for public employees and effective measures against illicit enrichment, including stiff penalties for those who utilize their public position to benefit private interests.
- Call on the governments of the world to adopt and enforce measures against bribery in all financial or commercial transactions with the hemisphere; toward this end, invite the OAS to establish liaison with the OECD working group on bribery in international business transactions.
- Develop mechanisms of cooperation in the judicial and banking areas to make possible rapid and effective response in the international investigation of corruption cases.
- Give priority to strengthening government regulations and procurement, tax collection, the administration of justice and the electoral and legislative processes, utilizing the support of the IDB and other international financial institutions where appropriate.
- Develop within the OAS, with due regard to applicable treaties and national legislation, a hemispheric approach to acts of corruption in both the public and private sectors that would include extradition and prosecution of individuals so charged, through

negotiation of a new hemispheric agreement or new arrangements within existing frameworks for international cooperation.<sup>6</sup>

Transparency International, an extremely active, non-profit and non-governmental organization with headquarters in Germany, is also working incessantly to counter corruption both in international business transactions and, through its national chapters at the national level.

Transparency International's mission is:

- To curb corruption through international and national coalitions encouraging governments to establish and implement effective laws, policies and anti-corruption programmes.
- To strengthen public support and understanding for anti-corruption programmes and enhance public transparency and accountability in international business transactions and in the administration of public procurement.
- To encourage all parties to international business transactions to operate at the highest levels of integrity, guided in particular by TI's Standards of Conduct.

Their strategy is to do this by:

- Establishing coalitions of like-minded organizations and individuals to work with governments (wherever possible) to assist in developing and implementing national anti-corruption programmes.
- Initiating an information centre and conducting practically-oriented research into aspects of containing corruption; participating in public fora; and using publicity campaigns to broaden public awareness of the damage caused by corruption, the need to counter it, and the means to reduce it.
- Building National Chapters of TI that foster anti-corruption programmes in their own countries in accordance with TI's approaches and core values, and to help secure support for TI's international programme of action.<sup>7</sup>

Transparency International has done exceptionally remarkable work in creating worldwide awareness about the dangerous implication of the growing menace of corruption, especially for billions of people living in developing countries.

The efforts of the United Nations to create a more just world order are being frustrated by this cancerous phenomenon. Clearly, the time has come for concerted effort by the United Nations Organization to engage effectively in fighting corruption by developing a global convention incorporating model rules and regulations based on generally accepted ethical principles for governmental administration and model codes of conduct for heads of government, ministers, MPs, bureaucrats, judges and policemen for implementation in all member States. After all, with the advent of the computer age and Internet, the world has virtually become a boundaryless global entity. A global initiative by the United Nations to fight corruption is probably the most important need of the world today. If the World Health Organization, the International Labour Organization, the International Civil Aviation Organization, the International Maritime Organization and other entities of the United Nations system can develop global stands for enforcement at the national level by all member States, there is every reason for the development and adoption of a global convention on ethics by the United Nations for implementation by each member State within its national administration. Such a convention could lay down ethical standards at the highest *practicable* level, leaving every country free to adopt and enforce even higher standards if it so wishes. A global convention on ethics would exert a lot of moral pressure on all developing countries to combat corruption and thereby to eradicate the prevailing misery and poverty.

The distinguished Secretary General of the United Nations, Honorable Kofi Annan, is invited to think about it.

#### ENDNOTE

1. Peter John Perry, *Political Corruption and Political Geography*, Ashgate, Aldershot, England, 1997, p. 104.
2. James Gustave Speth, 'The Neglect of Growing Poverty Poses a Global Threat' *The International Herald Tribune*, 17-18 July 1999, p. 6.
3. Eveline Herfkens, Johnson, F. Short Clare and Wieczorek Zeul, Heide Marie, 'If We are Serious, We Do Something about Poverty', *The International Herald Tribune*, 10 August 1999.
4. George Moody-Stuart, *Grand Corruption*, Worldview Publishing, Oxford, UK, 1997.
5. Test provided by OECD Secretariat.
6. George Moody-Stuart, op. cit., p. 104-07
7. Ibid., p. 87.

## *Epilogue*

The result of the general election held in September-October 1999 has given a feeling of reassurance, indeed of elation, to the people of India. It is extremely comforting that despite numerous handicaps, democracy has clearly taken deep and unshakeable roots in the country. And India's democracy has visibly demonstrated one of the great merits of this form of government—its ability and capacity to bring about a momentous change in the political scene of the country without any fuss or drama, just through the ballot box. Prior to the general election, India had a shaky coalition government, on the verge of a precipice all the time. Now, after the general election, there is a strong, stable and well-knit national coalition government in power under the leadership of Prime Minister Atal Behari Vajpayee, with a mandate from the people for a full 5-year term. India is thus now well set.

The government in power presently has the historic opportunity, responsibility and ability to take decisive steps for launching a determined assault on the demon of corruption and for providing honest, transparent, efficient and compassionate administration which is the most urgent and basic requirement of all the people of India. For only with good government in place, would it be possible to formulate and implement, with assured success, time-bound programmes for the eradication of poverty, for the modernization of infrastructure and for an accelerated economic development of the country with social justice. All of this is well within India's reach.

Once again India stands at the crossroads of history. Prime Minister Atal Behari Vajpayee has declared 'zero tolerance' towards corruption. That is an excellent 'battle cry' against this demon. There is general expectation that on this occasion India may well succeed in taking some decisive steps towards the restoration of transparency and integrity in the governance of the country.

## *Appendix*

### **Extracts From Ethics in Government Act of 1978**

**(As Amended From Time to Time)**

**of**

**The United States of America**

### **Title I—Legislative Personnel Financial Disclosure Requirements Coverage**

**SEC. 101.(a) Each Member in office on May 15 of a calendar year shall file on or before May 15 of that calendar year a report containing the information as described in section 102(a).**

**(b) (1) Any individual who is an officer or employee of the legislative branch described in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of sixty day in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in Section 102(a) if such individual is or will be such an officer or employee on such May 15.**

**(2) Any individual whose employment as an officer or employee described in subsection (e) is terminated in any calendar year may be required:**

- (A) under the rules of the House of Representatives, if such individual would, but for such termination, file a report with the Clerk pursuant to Section 103(a), or**
- (B) under the rules of the Senate, if such individual would, but for such termination, file a report with the Secretary pursuant to Section 103(b),**

**to file a financial disclosure report covering (i) that part of such calendar year during which such individual was employed as such an officer or employee, and (ii) the preceding calendar year if the report required by paragraph (1) covering that calendar year has not been filed.**

**(c) Within thirty days of assuming the position of an officer or employee described in subsection (e), an individual other than an individual who was employed in the legislative branch immediately before he assumed such position, shall file a report containing the information as described in Section 102(b)**

unless the individual has left another position described in subsection (e) within thirty days, prior to assuming his new position. The provisions of the preceding sentence shall not apply to an individual who, as determined by the designated committee of the Senate or the designated committee of the House, as appropriate, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if he performs the duties of his office or position for more than sixty days in a calendar year, the report required by the preceding sentence shall be filed within fifteen days of the sixtieth day. This subsection shall take effect on January 1, 1979.

(d) Within thirty days of becoming a candidate in a calendar year for any election for the office of Member, or on or before May 15 of that calendar year, whichever is later, but in no event later than seven days prior to the election, and on or before May 15 of each successive year the individual continues to be a candidate, an individual shall file a report containing the information as described in Section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar year, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(e) The officers and employees referred to in subsections (b) and (c) are:

- (1) each officer or employee of the legislative branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and
- (2) at least one principal assistant designated for purposes of this section by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule.

For the purposes of this title, the legislative branch includes the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Cost Accounting Standards Board, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of the Attending Physician, National Commission on Air Quality, and the Office of Technology Assessment.

(f) Reasonable extensions of time for filing any report may be granted by the designated committee of the Senate with respect to those filing with the Secretary and by the designated committee of the House of Representatives with respect to those filing with the Clerk but in no event may the extension granted to a Member or candidate result in a required report being filed later than seven days prior to an election involving the Member or candidate. If the day on which a report is required to be filed falls on a weekend or holiday, the report may be filed on the next business day.

(g) Notwithstanding the dates specified in subsection (d) of this section, an individual who is a candidate in calendar year 1978 shall file the report required by such subsection not later than November 1, 1978, except that a candidate for the Senate who has filed a report as of such date pursuant to the Rules of the Senate need not file the report required by subsection (d) of this section.

(h) The designated committee of the House of Representatives, or the designated committee of the Senate, as the case may be, may grant a publicly available request for a waiver of any reporting requirements under this section for an individual who is expected to perform or has performed the duties of his office or position for less than one hundred and thirty days in a calendar year, but only if such committee determines that:

- (1) Such individual is not a full-time employee of the Government,
- (2) Such individual is able to provide services specially needed by the Government,
- (3) It is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and
- (4) Public financial disclosure by such individual is not necessary in the circumstances.

#### **Contents of Reports**

SEC. 102.(a) Each report filed pursuant to subsections (a) and (b) of Section 101 shall include a full and complete statement with respect to the following:

- (1) (A) The source, type, and amount or value of income (other than income referred to in subparagraph (B) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$ 100 in amount or value.  
(B) The source and type of income which consists of dividends, interest, rent, and capital gains, received during the preceding calendar year which exceeds \$ 100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:
  - (i) not more than \$ 1,00;
  - (ii) greater than \$ 2,500 but not more than \$ 5,000;
  - (iii) greater than \$ 5,000 but not more than \$ 15,000;
  - (iv) greater than \$ 15,000 but not more than \$ 50,000;
  - (v) greater than \$ 50,000 but not more than \$ 100,000; or
  - (vi) greater than \$ 100,000.
- (2) (A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating \$ 250 or more

- in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of \$ 35 or less need not be aggregated for purposes of this subparagraph.
- (B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating \$ 100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except than any gift with a fair market value of \$ 35 or less need not be aggregated for purposes of this subparagraph.
- (C) The identity of the source and a brief description of reimbursements received from any source aggregating \$ 250 or more in value and received during the preceding calendar year.
- (D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.
- (3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$ 1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating \$ 5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.
- (4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed \$ 10,000 at any time during the preceding calendar year, excluding:
- (A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse;
- (B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.
- With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$ 10,000 as of the close of the preceding calendar year need be reported under this paragraph.
- (5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds \$ 1,000:
- (A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

- (B) in stocks, bonds, commodities futures, and other forms of securities. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.
- (6) The identity of all positions held on or before the date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any non-profit organization, any labour organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.
- (7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.
- (b) Each report filed pursuant to subsections (c) and (d) of Section 101 shall include a full and complete statement with respect to the information required by:
- (1) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year;
  - (2) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and
  - (3) paragraph (6) and, in the case of reports filed under Section 101(c), paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraphs.
- (c) (1) The categories for reporting the amount of value of the items covered in paragraphs (3), (4) and (5) of subsection (a) are as follows:
- (A) not more than \$ 5,000;
  - (B) greater than \$ 5,000 but not more than \$ 15,000;
  - (C) greater than \$ 15,000 but not more than \$ 50,000;
  - (D) greater than \$ 50,000 but not more than \$ 100,000;
  - (E) greater than \$ 100,000 but not more than \$ 250,000; and
  - (F) greater than \$ 250,000.
- (2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is

computed at less than 100 per cent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 per cent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(d) (1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individuals as follows:

- (A) The source of items of earned income earned by a spouse from any person which exceeded \$ 1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a) (1) (B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a professional, only the nature of such business or profession need be reported.
- (B) In the case of any gifts received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.
- (C) In the case of any reimbursements received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of each such reimbursement.
- (D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3) and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e) (1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a) and (b) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of:

- (A) any qualified blind trust (as defined in paragraph (3)); or (B) a trust:
  - (i) which was not created directly by such individual, his spouse, or any dependent child, and
  - (ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a) (1) (B) of this section.

(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

- (A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who):
  - (i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party.
  - (ii) is not or has not been an employee of any interested party, or any organization affiliated with any interested party, and
  - (iii) is not a relative of any interested party.
- (B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is

expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that:

- (i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;
- (ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;
- (iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$ 1,000;
- (iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return) shall not be disclosed to any interested party;
- (v) an interested party shall not receive any report on the holdings and source of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a) (1) (B) of this section but such report shall not identify any asset or holding;
- (vi) except for communication which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it related only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and
- (vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. For purpose of this subsection 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; 'broker' has the meaning set forth in Section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trust; and 'supervising ethics office' means the designated committee of the House of Representatives for those who file the reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.

(1) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of Section 208 of Title 18, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$ 1,000.

(2) (A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of

- (i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and
- (ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (c)(1) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(A) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (c)(1) of this section.

(B) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall:

- (i) notify his supervising ethics office of such dissolution, and

- (ii) file with such office a copy of the assets of the trust at the time of such dissolution and the category of value under subsection (c) of this subsection of each such asset.
  - (A) Documents filed under subparagraphs (A), (B) and (C) of this paragraph and the list provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 104, and the provisions of that section shall apply with respect to such documents and list.
  - (B) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.
- (6)(A) A trustee of a qualified blind trust shall not knowingly or negligently
- (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection;
  - (ii) acquire any holding the ownership of which is prohibited by the trust instrument;
  - (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or
  - (iv) fail to file any document required by this subsection.
- (B) A reporting individual shall not knowingly or negligently
- (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection, or
  - (ii) fail to file any document required by this subsection.
- (A)
- (i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$ 5,000.
  - (ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$ 1,000.
- (7) Any trust may be considered to be a qualified blind trust if:
- (A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and

any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

- (B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category or value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and
- (C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(f) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(g) A report filed pursuant to subsection (a) or (b) of Section 101 need not contain the information described in subparagraphs (A), (B) and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not a Member or an officer or employee of the Federal Government.

#### Filing of Reports; Duties of Clerk and Secretary

SEC. 103.(a) The reports required by Section 101 of Representatives, Delegates to Congress, the Resident Commissioner from Puerto Rico, officers and employees of the House, candidates seeking election to the House, and officers and employees of the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Government Printing Office, and the Library of Congress shall be filed with the Clerk.

- (b) The reports required by Section 101 of Senators, officers and employees of the Senate, candidates seeking election to the Senate, and officers of the employees of the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, National Commission on Air Quality, and the Office of the Attending Physician shall be filed with the Secretary.
- (c) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with Section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

- (d) (1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the designated committee of the House of Representatives within the seven-day period beginning the day that the report is filed.  
(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the designated committee of the Senate.
- (e) In carrying out their responsibilities under this title, the Clerk and the Secretary shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification programme with the Clerk and the Secretary to the greatest extent possible.
- (f) In order to carry out their responsibilities under this title, the designated committee of the House of Representatives, and the designated committee of the Senate, shall develop reporting forms and may promulgate rules and regulations.

#### **Accessibility of Reports**

SEC. 104.(a) Except as provided in the second sentence of this subsection, within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Clerk to any person upon request.

- (b) Except as provided in the second sentence of this subsection, within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Secretary to any person upon request.
- (c) (1) Notwithstanding subsections (a) and (b), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating:
  - (A) that person's name, occupation, and address;

- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and
- (C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(2) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to Section 101(d) and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member unless needed in an ongoing investigation.

(e) (1) It shall be unlawful for any person to obtain or use a report:

- (A) for any unlawful purposes;
- (B) for any commercial purposes other than by news and communications media for dissemination to the general public;
- (C) for determining or establishing the credit rating of any individual; or
- (D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$ 5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

#### **Review and Compliance Procedures**

SEC.105.(a) The designated committee of the House of Representatives and the designated committee of the Senate shall establish procedures for the review of reports sent to them under Section 103(d)(1) and Section 103(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this title the designated committee of the House of Representatives and the designated committee of the Senate, have power, within their respective jurisdictions, to render any advisory opinion interpreting this title, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom a public advisory opinion is rendered in accordance with this subsection, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of the advisory opinion, acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this title.

#### **Failure to File or Falsifying Reports**

SEC.106. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to Section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$ 5,000. No action may be brought under this section against any individual with respect to a report filed by such individual in calendar year 1978 pursuant to Section 101(d).

#### **Definitions**

SEC.107. For the purposes of this title, the term

(1) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include:

- (A) bequest and other forms of inheritance;
  - (B) suitable mementos of a function honoring the reporting individual;
  - (C) food, lodging, transportation, and entertainment provided by State and local governments, or political subdivisions thereof, by a foreign government within a foreign country, or by the United States Government;
  - (D) food and beverages consumed at banquets, receptions, or similar events;
  - (E) consumable products provided by home-State businesses to a Member's office for distribution; or
  - (F) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;
- (4) 'honoraria' has the meaning given such term in the Federal Election Campaign Act of 1971;
- (5) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;
- (6) 'personal hospitality of an individual' means hospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;
- (7) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who:
- (A) is unmarried and under age 21 and is living in the household of such reporting individual; or
  - (B) is a dependent of such reporting individual within the meaning of Section 152 of the Internal Revenue Code of 1954;
- (8) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are:
- (A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;
  - (B) required to be reported by the reporting individual under Section 7342 of Title 5, United States Code; or
  - (C) required to be reported under Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);
- (8) 'candidate' means an individual, other than a Member, who seeks nomination for election, or election, to the Congress whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to

seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a));

(9) 'clerk' means the Clerk of the House of Representatives;

(10) 'secretary' means the Secretary of the Senate;

(11) 'member' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commission from Puerto Rico;

(12) 'election' means (A) a general, special, primary, or run-off election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(13) 'officer or employee of the House' means any individual, other than a Member, whose compensation is disbursed by the Clerk;

(14) 'officer or employee of the Senate' means an individual, other than a Senator or the Vice President, whose compensation is disbursed by the Secretary; and

(15) 'designated committee of the House of Representatives' and 'designated committee of the Senate' mean the committee of the House or Senate, as the case may be, assigned responsibility for administering the reporting requirements of this title.

#### **Other Laws**

SEC. 108. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of holding the office of Member or candidacy for Federal office or employment by the United States Government.

#### **General Accounting Office Study**

SEC. 109.(a) Before 30 November 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first

such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or non-governmental unit should perform the audits, and under whose supervision.

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