

ARC: Corruption is monopoly plus discretion minus accountability

Quotes on governance:

Plato: The punishment suffered by the wise who refuse to take part in govt is to suffer under the govt of bad men

Napoleon: Law should be so succinct to be carried in the pocket of the coat and so simple to be understood by a peasant

Gladstone: The purpose of a govt is to make it easy for people to do good and difficult to do evil

Quotes on ethics:

We can easily forgive a child who is afraid of the dark; the real tragedy of life is when men are afraid of the light

Gandhi: Be the change you want to see

Ethics is knowing the difference between what you have a right to do and what is right to do

(use for legality vs morality)

Ethics - a set of standards that helps guide conduct.

Ethics from Greek ethikos - meaning arising from habit

Standard for probity in public life should not be only conviction in criminal court but propriety

Instances Parl showed integrity - expelled for \$ for asking questions

Eg Mudgal Case - MP of LS expelled by Parl, 1951

Eg 2005 - 10 LS members expelled, same reason

Nolan Committee, UK: What constitutes ethical standards? - HOLOIAS

- Selflessness -public interest
- Accountability - to public, willingness for scrutiny
- Honesty - declare any pvt interests
- Integrity -not work for illegitimate interests
- Leadership - promote these principles by example
- Openness - in decision making
- Objectivity - in carrying out public business

ETHICS/CORRUPTION

Way Forward:

Specific:

- Sanction for prosecution of public servants not necessary if caught red handed, or disproportionate assets to income
- Civil liability of corrupt public officials to pay damages
- Special courts for speeding up trials under Prevention of Corruption Act, proceedings on day to day basis
- Whistleblower laws for protection eg witness protection programme like US, anonymity and police protection (Manjunah Shanmugam KIA petrol adulteration, Satyendra Dubey KIA corruption in road const)
- Monitoring through autonomous, credible structures eg ombudsman, Lokpal
- Focus on e-governance for transparency, accountability to minimize scope for C
 - 1.Simplify procedures for accountability, access - Single Window Clearance system - remove delays, corruption
 - eg E-Seva model in Andhra - services of 13 state govt orgs, 3 central govt orgs, 9 pvt orgs in 1 roof like paying bills, taxes, bus reservation, passport application
 - eg Bhoomi project Karnataka - land records computerized, no need to pay bribes to obtain them
 - 2.Transparency - eg RTI, decision making and working open to public scrutiny
 - 3.Reduce discretion
 - eg birth, death certificates automated
 - 4.Accessibility and responsiveness- online tracking system
- Minimizing discretionary powers & creating incentives for honesty

General:

- Monopoly of govt creates scope for corruption
 - Need to identify areas where monopoly can be eliminated and competition brought
 - Eg telecom, mining helps increase efficiency, remove scope for corruption
- Performance audit to evaluate performance, performance based progression
- International cooperation - eg money laundering, freezing assets, extradition, asset recovery, sharing evidence

- Stringent standards of probity in public life prescribed, beyond compliance with law
- Empowerment of citizens for accountability eg RTI, citizen charter, social audit
- Amending laws making corruption low risk activity
- Stringent punishment, eliminate delays

Corruption

Is an important manifestation of failure of ethics

Misuse of entrusted power for private gain. (eg manager for own benefit not shareholder - pvt sector)

Word corrupt from Latin corruptus meaning to break or destroy

Anti-corruption interventions seen as ineffectual, widespread public cynicism

Considered posturing, no real intention.

Two approaches to deal with corruption and abuse of office

- Overemphasis on values, character - assume values must be restored to fight C
- Belief most humans fundamentally decent but small proportion who cannot reconcile individual goals with goals of society - must deal with them firmly

Both Values, Institutions matter

- Values needed to serve as guiding stars, provide sense of right and wrong
- Values must be sustained by institutions

Hence creation of institutions, designing of incentives is crucial for promoting ethical conduct of civil servants

Need systemic reform

Holistic approach

- Punitive measures as deterrent
- Preventive measures to reduce opportunities

Successful Eg e-procurement in Andhra for govt contracting

In India, corruption, abuse of office aggravated by 3 factors:

- Colonial legacy of unchallenged authority, propensity to exercise power arbitrarily - easy to deviate from ethical conduct
- Enormous asymmetry of power - eco, social inequalities, caste legacy, 90% workforce in unorganized sector
- Policies in after independence- unintended consequence of putting citizen at mercy of State

- Severe restrictions on eco activity
- Excessive state control & near monopoly of govt in many sectors
- Economy of scarcity
- State subsidies, beneficiary oriented programmes in situation of asymmetry of power converted public servant into patron, citizen into mendicant

These created conditions conducive to corruption, reduced citizens capacity to resist.

- Overcentralization increases corruption - large number of functionaries b/w citizen and decision makers diffuses accountability
- Quality of politics - criminal-politician nexus
 - Politicians to secure votes through money, muscle power & criminals enter politics for interference in crime investigation, monetary gain- creates "acceptance" for criminals to enter politics

Issues in Political Reforms

- Reform of Political funding -
 - National Committee to Review the Working of the Constitution recommended deferring state funding of elections till better regulatory mechanisms developed
 - Disclosure of party finances, contributions (2003 Election Laws Act)
 - ARC reco - publication of accounts of pol party and auditing
- Coalition government Opportunism - Const amended so if a coalition member leaves then fresh election
 - ARC - tighten anti-defection law, issue of DQ for defection to be decided by Pres/Governor on advice of EC - eliminate delay, partisanship
- Election Commission
 - Collegium headed by PM with Speaker of LS, Leader of Opposition in LS, Law Min and Deputy Chairman RS should make recoms for CEC and EComissioners
 - Special Election Tribunals under Art 323B of Const for speedy disposal of election petitions within 6 months
- Morality equated with legality - ethics should be grounded in responsibility, accountability. Tragic plight when accepted standard to measure Integrity of man is that he keep within the letter of the law
 - Codifying ethical norms, practices
 - Disclose personal interest to avoid conflict b/w public interest, personal gain
 - Norms for disqualifying public functionary from office
 - Mechanism for enforcing codes

Another issue -

Perversion of separation of powers-

chairmanship of corporations, parliamentary secretaryship of ministries used as sops to legislators - satisfy aspirations, buy peace with opposition etc

Public office perceived to be for private gain, not to promote social good

Need to define office of profit for separation of powers-

Exceptions created to allow legislators to hold office dilute separation of powers.

Real criterion is not remuneration but whether executive authority in terms of decision making is exercised

Schemes like MPLADS - MP Local Area Development Scheme erode separation of powers as legislator directly becomes the executive

Solution:

- Offices in purely advisory bodies not office of profit, irrespect of remuneration/perks
- Offices involving executive decision making and control of public funds treated as office of profit- no legislator to hold such offices
- Schemes like MPLADS, MLALADS to be abolished

Corruption can be coercive - extortionary or collusive both giver and taker benefit

Lokpal

Similar to ombudsman in Scandinavian countries

Reco by 1st ARC

Bill introduced several time

Watchdog over integrity of ministers, MPs

Enquires into cases of corruption against public functionaries

Recos

- Organic link b/w CVC and Lokpal as CVC deals with public officials- CVC enjoy full autonomy but under overall guidance of L
- Keep out PM, CM from jurisdiction - undermines capacity to lead govt, his unchallenged authority and leadership critical to govt - if guilty, Parl should be judge
- Effective mechanism for interaction with public for checks and balance in functioning, prevent abuse of authority
- Lokpal to be given constitutional status
- Selection of Lokpal through committee of PM, CJI, LS Speaker, Leader of Oppn

Need local Bodies Ombudsman for groups of districts for complaints against local bodies

Experience shows Lokayuktas in states lacked independence - depended on govt for investigation authority, had no credibility

No uniformity across states

Role of civil society crucial

Govt can facilitate participation by

- Inviting to oversee govt projects
- Credible complaint mechanism
- Access to info
- Public awareness campaigns
- Assessing public service periodically, social audit
- Awareness, enforcement of citizen charters
- Incentives for citizens report corruption eg rewards like % of recovery like US has False Claims Act
- Institutional mechanism to work with media, verify allegations and develop code of conduct for media