

## **CORRUPTION AND THE CIVIL SERVICES**

- Harsh Mander

From time to time, corruption surfaces briefly in our polity as a central issue engaging and agitating ordinary people. On such occasions, both the context and the catalyst often vary: activism in the media, the judiciary, politics, the civil services or, as is most frequent, in the wider civil society. The ordinary citizen watches with mounting outrage as novel dimensions of corruption in public life come to light each time, confirming once more the malfeasance of those who govern and administer us, in their perilous compromises with public welfare, the control of organised crime and even national security. Each time, the citizen responds with a weary and fragile hope that justice will be done, but before long the dust settles, the guilty are rarely punished, and the citizen returns to struggles of daily survival in what increasingly appears to be an irrevocably corrupt, corroded system.

In the first part of this paper, we will study closely the phenomenon of corruption by public authorities in India, particularly the civil services: its causes, dynamics and the methods and dilemmas associated with its possible control. We will examine the efficacy of systemic regulation and reforms to reduce corruption. In the second part, we will argue that the movement for right to information in India demonstrates the critical significance of citizen vigilance and assertion in checking the corrupt and arbitrary exercise of state power. We will conclude that it is through the creation of effective legal spaces for the exercise of the people's right to information that the most powerful, sustainable and reliable safeguards against corruption in public life can be erected.

### **PART I**

#### **CAUSES AND CONTROL OF CORRUPTION IN INDIA**

##### **Definition of Corruption**

In a literal sense, the word 'corruption' means to change from good to bad, to debase, to pervert. In the context of public office, the most widely accepted definition of corruption is the misuse of public office, power or authority for private gain.<sup>1</sup> Corruption may involve two (or more) parties, as would be the

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<sup>1</sup> A more elaborate definition of corruption 'as behaviour which deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power or

case for instance in bribery, extortion, nepotism, and speed money. Corruption by public authorities may also be a solitary engagement, as in embezzlement, fraud and the misuse of official facilities.

One problem with this definition of corruption is that it appears to exclude the private sector from its scope. Recent exposures in India have shown that the rot of corruption runs at least as deep in the private sector as in government, and that the private sector is, in fact, in many cases, a willing partner in government corruption. For example, it has been pointed out that large corporations and even governments in some industrial countries resist reforms to control corruption, because of the belief that illegal payments to officials in less industrialised countries work to their benefit. However, even while acknowledging this, this paper will limit itself to an examination of corruption by public authorities, particularly in the civil services, in the context of India.

A distinction is sometimes made in the literature between petty and grand corruption, according to which petty corruption is based on all kickbacks and follows from the grossly low salaries paid to public servants. On the other hand, grand corruption refers to the huge amounts made by high officials on decisions relating, for instance, to large public contracts.

The distinction is a real one, but there is a danger of using this distinction for rationalising, possibly almost condoning even if only by implication, petty corruption, as being based on need rather than greed. The poor are no doubt hurt by grand corruption, but also in their day to day lives they grapple debilitatingly with petty corruption. It is important that both forms of corruption are both examined and confronted together.

A distinction is also sometimes made between legitimate 'gifts' and bribes. Olusegun Obasanjo, a former Nigerian Head of State, has been quoted to say, 'The distinction between gifts and bribes is easily recognisable. A gift can be accepted openly; a bribe has to be kept secret'.

However, this distinction is mostly spurious. Even gifts that do not involve cash transactions involve the same explicit or implicit obligations of reciprocity involved in cash bribes. Therefore, they also constitute corrupt transactions, which may be described as the grey areas of corruption. These grey areas of corruption are, in practice, far more common in India than money transactions, and may include the acceptance of favours in the form of liquor, loans of cars, travel and hotel hospitality, house rent, placement of relatives in multinational companies and scholarships for foreign universities etc.

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status' is discussed by Khan (1996). He also offers a typology of the categories and causes of corruption as described in the economic literature.

Such non-pecuniary grey area corruption is often packaged to make it appear antiseptic and respectable, both to the recipient and to the general public. The most obvious and literal example of such packaged corruption in India is the ubiquitous Diwali<sup>2</sup> gift, which has evolved from boxes of *mithai*<sup>3</sup> and baskets of fruit, to gifts of expensive suit-lengths, foreign liquor and gold and silver. Another notorious, particularly sophisticated form in which corruption is packaged is promoters' quota shares. Its neatness lies in the fact that widespread bribe-taking at the highest levels, especially of those charged with the formulation and implementation of economic policy, can be conducted brazenly in the open, effectively disguised as part of the legitimate right of public servants to trade in stocks and shares.

In many ways, packaged grey area corruption is more dangerous than pecuniary corruption. Not only is it much more difficult to catch, it is also much easier for the recipients of such bribes to rationalise these to their own conscience. Such rationalisations are often ingenious. A young income tax officer in Delhi, for instance, claimed to this writer that since he lived 27 kilometres away from his office in Delhi, coming to work each day by a local bus would tire him out and affect his productivity and his official duties would suffer. Therefore, if a client sent him a car each day to come and go from work, the government was the one to benefit from his higher productivity at work!

There is some resonance in spirit with former Nigerian head of state, Obasanjo's rationalisation referred to earlier, according to which consideration accepted openly was not a bribe: in other words, if one receives benefits for which one cannot legally be caught, it is not a bribe. Surely, it must be clear that corruption by public authorities cannot be defined in terms of the scale, con- (cash or kind), secrecy or openness of a transaction. Instead, any transaction intended to influence the misuse of public office for private benefit is a corrupt act, even if packaged in a culturally acceptable form, or in a form that would not invite punitive outcomes.

There are many civil servants who make a choice of personal honesty, but refuse to take proactive action to control corruption among their subordinates, in their own offices and in other offices under their jurisdiction. Many refuse to take action when confronted with irrefutable evidence of corruption. The reason for such an attitude is often a fear of the consequences to themselves of rocking the boat in pervasively corrupt waters. A corrupt subordinate is often known to wield more real power than the superior, and can even secure the transfer or harassment of an inconvenient boss. However, it would be evident that ethically

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<sup>2</sup> Diwali or the festival of lights, widely celebrated in most parts of India, also may involve the exchange of gifts. In contemporary India, it has become extremely commonplace for businesspeople to distribute expensive gifts on Diwali to politicians and officials.

<sup>3</sup> Traditional sweetmeats

there is very little difference between active participation in corrupt practices, and tacit or passive acceptance of it for fear of consequences. Therefore, we include refusal to control corruption within one's official jurisdiction, even while remaining nominally honest personally, within the scope of our definition of corruption.

### **Dynamics of Corruption**

We noted that some forms of corruption could be engaged in on the solitary initiative of the public official, such as leakages, embezzlement and wilful misuse of facilities. On the other hand, corruption in the complex interface of public authorities and the public takes diverse forms. First, there is the phenomenon widely known as 'speed money', in which there is no attempt to influence the outcome of an official decision; the effort instead is to overcome delays. This is possibly the most common dynamic of corruption in public offices, and arises from the unpredictable and uncertain delays that riddle the routine functioning of any office. The client is then encouraged to pay pre-arranged sums to ensure that a decision is taken on an issue. This is, for instance, common in courts, where the client would be willing to pay even for an adverse decision, to enable recourse to further avenues of relief, in preference to protracted and uncertain delays which result in a stalemate and paralysis of options.

A second dynamic of corruption is what we may term as 'goodwill money'. In such cases, the client pays to influence neither the outcome nor the speed of specific official decisions. It is instead a regular payment in cash or kind to keep public servants in good humour, in the hope that they would be positively disposed towards the client in the future in the event of decisions affecting the fortunes of the client. Businessmen routinely resort to such goodwill bribery, and a large part of the payment to politicians and officials allegedly made by the Jain brothers in what is now known as the infamous 'hawala' scandal which briefly rocked the Indian political establishment <sup>4</sup>appears to fall in this category. It is an investment in the future not related to specific favours, and which may or may not be ultimately encashed.

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<sup>4</sup> The hawala scandal led to revelations that senior politicians and even Members of Parliament from almost all major political parties, barring the left, had received sums of money from the infamous Jain brothers, who were alleged to have been engaged in a massive money-laundering operation. The resulting outcry forced many of the accused to resign from the posts they were occupying. Eventually, however the case petered out with many politicians being acquitted of wrongdoing, because the courts found the evidence inadequate. For contemporary accounts of the scam, in its early days, see *The Hindu*, February 23, 1996 and *Business Line*, February 23, 1996.

A third category is what we may describe as 'end money'. In such cases, money or favours are offered specifically to influence official decisions in favour of the client. Such bribes are frequently used to obtain contracts and licenses, favourable outcomes in courts, tax cases and police investigations etc.<sup>5</sup>

The most diabolical form of corruption is what may be termed 'blackmail money'. Here, the initiative is not taken by the client in any way, either to influence the speed or outcome of any official decision or to invest in goodwill. Instead, it is the official who traps the client into a situation, in which he or she must pay, or else face adverse consequences. Such consequences may include registration of false revenue, civil, tax or police cases. In this event, the client is an unwilling and hapless partner in corruption, paying only to escape harassment.

### **Causes of Corruption**

Corruption is a symptom of the collapse of the institutions of governance that are supposed to mediate the relationship between citizens and the state. The legitimacy of the state is related to its responsibilities for ensuring that scarce resources are allocated according to principles of justice for development, protection and welfare of the disadvantaged, sustainable management of natural resources, the rule of law, peace and security. Corruption represents the subversion of these responsibilities for the personal enrichment and aggrandisement of public servants.

The causes for this malaise lie both in society, as well as in the character of the bureaucratic machine. The sombre empirical reality of the pervasiveness of corruption in Indian public life today is rooted first and foremost in the social legitimacy that has come to be tacitly accorded to corruption in every sphere. In the relatively idealistic decades just after Independence, corruption did exist but the corrupt official or politician tended to be low-key and defensive, and ostracised if exposed. The situation today is almost the opposite — it is the honest official or politician who is defensive, viewed as an anachronism, a comic figure or a fool. As all restraint is thrown to the winds, the corrupt have no compunction in flaunting their illegal wealth, grotesquely disproportionate to all

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<sup>5</sup> An anecdote may help to illustrate this phenomenon. In what is most likely to be an apophthical story, a Chief Minister is alleged to have agreed to award a contract on the basis of a promise of a large sum of money. When the file was presented to him proposing the award of the contract, he wrote 'Approved'. When the recipient of the contract subsequently went back on the promised bribe, the file was called back and the word 'Not' added before 'Approved'. The client is believed to have quickly made amends with an even higher amount than what was earlier negotiated. The file was recalled a third time, and this time only the vowel 'e' was added. The order now read "Note Approved" !

legitimate and known sources of income in large mansions and conspicuous consumption. One by one, every idol is found to have corrupt feet of clay. In India, cricket players enjoyed vast cult following and had huge legitimate wealth, but utterly sordid revelations about bribery and match-fixing have brought them crashing down. Exposures like this strengthen the belief that many young people are growing up with, that no one is honest if they have the opportunity to make illegal money.

Related to this is the burgeoning of consumerist values, fostered by seductive advertising especially on the electronic media, in the permissive environment created by the debunking of constraints imposed in the past by the stated socialist goals of official policy. The salaries of civil servants by no means reduce them to poverty, but at the same time they guarantee no more than a middle-class existence.<sup>6</sup> Some decades ago, there was a willingness to accept this as the cost of a fulfilling and prestigious vocation, but in today's consumerist world we find an unwillingness among civil servants to reconcile to a middle-class standard of living. This sharp imbalance between means and aspirations fuels corruption, especially of the grey and packaged kind.

The opportunities for corrupt practice are further fostered by several systemic factors intrinsic to the character of the bureaucratic machine. These include lack of transparency, accessibility or accountability, a demotivated and untrained staff, cumbersome and confusing procedures, proliferation of mindless controls, and poor commitment at all levels to public welfare outcomes. Moreover, the degree of discretion available to public servants is large, rules and procedures are complex and mystified, poorly defined, poorly disseminated and ever-changing, and accountability is low. Most government offices typically present a picture of a client public bewildered and harassed by opaque rules and procedures and inordinate delays, vulnerable to exploitation by employees and touts.

Though the state has spread its tentacles to virtually aspects of the day-to-day life of the citizen, development and welfare programmes are seen to be distributed for a price.<sup>7</sup> Critical rights to land, shelter or natural resources are affirmed only when they are recorded by the state. Burgeoning litigation in courts is often greased by speed money, and law enforcement agencies are known to indulge in extortion from the poor.

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<sup>6</sup> The Fifth Pay Commission's recommendation have the overall remuneration package for a variety of governmental functionaries much more attractive, partly to keep up with stratospheric private sector salaries. However it has also fuelled concern about the budgetary burden, particularly with strident calls from other groups, such as university teachers, for matching increases in their remuneration. See for example, Naik (1999).

<sup>7</sup> Haragopal (1994) argues that in the Indian Context, the bureaucracy has emerged as a ruling rather than a serving class and the administrative culture combines a contempt for its poorer subjects with a hostility to welfare, development and change (1994:314).

These problems are further aggravated by the absence of effective professional and social sanctions in the civil services: while systemic rewards are not linked to integrity (sadly often the reverse), and the probabilities of detection and punishment remain extremely low. Though, as we shall see, there exist powerful laws in the statutes to control corruption, in practice detection is extremely weak, and even the few cases of malfeasance that are detected are often soft-pedalled and toothless departmental proceedings resorted to instead of deterrent criminal action. Investigation of corruption cases is typically shoddy and lackadaisical in comparison to other offences; often the investigating officer does not understand the details and nuances of the internal workings of the specific department, and valuable evidence is overlooked.

Though the aggressively honest public servant does not usually suffer in the long-run even today, there are often severe setbacks in the short-run that frighten all but the most stout-hearted.<sup>8</sup> At the same time, the corrupt are perceived to enjoy not only a good life but also the symbols of professional success, such as powerful postings and stable tenures, with very little likelihood of being brought to book. Scholar-administrator N.C. Saxena describes corruption today as an activity of low risk and high return. This permissive environment is gravely aggravated by the tendency among most officers, noted earlier, of wantonly ignoring corruption in their offices, to escape the consequences of aggressive honesty.

### **Control of Corruption**

In this section, we shall first examine and then attempt to refute arguments against aggressive policing of corruption, and go on to look at internal systemic modes of control of corruption by public authorities. In other words, we will examine whether it is desirable and feasible, and if so, to what extent, for public authorities to combat corruption within public offices by methods such as policing and internal administrative reforms, which do not directly involve civil society.

In the literature, as well as in public life, one may encounter arguments that bribes are in effect incentive payments for low-paid officials, and that they provide avenues to escape the burden of unrealistic government regulations,

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<sup>8</sup> Abraham (1990) documents the case of an Indian Administrative Service (IAS) officer Arun Bhatia who has had to face the wrath of the bureaucratic establishment for his campaign against corruption. The problems faced by those attempting to fight the system can be judged from the fact that Bhatia was in the news again recently, at the very end of the decade, during a posting in Pune, where a transfer resulting from his challenge to the land mafia was vigorously contested by the local citizenry.

taxes, and laws.<sup>9</sup> In this view, a frontal fight against corruption would result in a collapse of the system, because sullen subordinates would refuse to work in an environment that is efficiently policed against corruption. According to the logic of this line of argument, an active struggle against corruption would in fact be against public welfare because the benefits that clients are receiving even from a functioning corrupt system would be extinguished if the incentive of corruption is lost.

There are many weaknesses to this strain of reasoning. It presumes, first, that the public receives substantial benefits even from a corrupt public office. It has been pointed out that corruption leads to serious misallocation of resources away from areas of greatest need and thus social productivity. It also imposes high transaction costs on the client public, thereby, in fact shutting out even the target groups, leading to inefficiency in public expenditure.

A second assumption is that most government employees are motivated primarily by the wish to extort bribes from the client public. However, the experience of those officials like this writer who have attempted to fight corruption frontally, by a variety of measures described below, has been entirely to the contrary. If strict and fair action against corruption is accompanied by motivation of staff, recognition of good work and responsiveness to genuine grievances, employee motivation is found not to decline but in fact greatly blossom among the large majority of the staff. Human nature is not by and large irredeemable. Fighting corruption does not result in the collapse of the system, as is alleged by advocates of a passive policy towards corruption, but instead leads to it becoming much more humanised.

Other fatalists also point out that most anti-corruption campaigns end in failure. It often the experience, even criminal cases against corruption (leave alone civil proceedings), ultimately fail, either in the course of investigation or in the courts. Of the tiny proportion of cases actually brought to book, an even more microscopic fraction culminates in punishment. An officer of integrity and courage, who confronts corruption at great personal cost, is likely to despair when the corrupt in most cases thus walk away scot-free. Yet it is important to recognise that even failed efforts at controlling corruption are not futile, because they show that the situation is not hopeless, they counter cynicism, and act as a brake against completely unbridled corruption. Above all, the cumulative effect of such isolated examples is to break public passivity over time. And as we shall see, real solutions lie in the end in organised public action.

There are those who argue that the best solution is not policing but pay reforms to raise salaries, thereby reducing the marginal benefits of bribery. The government may be well advised not so much to raise salaries as to ensure fulfilment of at least middle-class aspirations of civil servants, for housing,

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<sup>9</sup> Khan (1996) in fact presents stylised economic models of this type.

transport, telephones and so on, to cushion from temptation at least the less vulnerable among them. However, it has not been demonstrated that higher salaries reliably depress corruption. Highly paid officials are not, as a rule, less corrupt than those paid low salaries.

The reasons for this are not hard to seek for if we recognise that corruption is related not to one's means but to one's aspirations, there is no guarantee that increased means would necessarily be accompanied by frozen aspirations. The reverse may well be true, because although a civil servant even today can take satisfaction by comparing his or her lot with the large mass of those below, human nature is much more likely to continue comparisons with the lifestyles of those who would always be better off than them in any circumstances. Also, in many developing countries, already as much as 70 per cent or more of gross state revenues are being spent on salaries. It would be unconscionable, and politically costly, to raise the establishment burden on the state exchequer any further. The only way higher salaries would be feasible would be by downsizing bureaucracy. However, with burgeoning unemployment and slow economic growth, government jobs are often the major avenue of new livelihoods for the educated, and typically there is, therefore, little political will for reducing government employment.

It is also often argued that controlling corruption within public offices however desirable theoretically is virtually impossible to achieve in practice. However, as we shall observe in the remaining part of this section, systemic responses to controlling corruption are feasible, given administrative or political will operating chiefly through the quality of leadership of public authorities, the enforcement of anti-corruption laws, and administrative reforms. We shall consider each of these in turn.

### **Quality of administrative leadership**

The internal control of corruption in any public system is critically dependent of the quality of leadership in public authorities. The first step in controlling corruption among subordinates is a clear will on the part of the supervising officer, and one that is equally clearly communicated i.e. not only a clear statement of intent, but also consistent backing by the actions of the manager.

Subordinates also take lessons from the kind of choice of employees official superiors make for tasks of responsibility. Most frequently, a public manager is forced to choose between corrupt and efficient, or honest and inefficient subordinates. Even for bona fide motives of result achievement, the choice often veers towards the former, but such a choice robs any statement of intention to campaign against corruption on the part of the public manager of any credibility.

What is also of paramount importance is the transparent and unimpeachable personal integrity of the manager. In all government offices, there is little about what transpires there that remains hidden from those working in it. Government officials serving in small towns quickly also learn that almost nothing in their private lives is hidden from inquisitive public scrutiny. Officers who choose to launch on a path of aggressive honesty cannot afford to lapse into even tamer forms of grey area corruption, because the inevitable backlash by vested interests affected by a campaign against corruption would render them entirely vulnerable. It is only an officer perceived to be personally incorruptible who can afford to take up cudgels against corruption.

An officer committed to controlling corruption must further be fully accessible to the client public, and must take prompt action in the event of any bona fide and reliable complaint. Any compromise on accessibility could breed corruption among those who filter access to the officer. And unwillingness or delay in acting on complaints of corruption would destroy the credibility and the ability of the officer in gathering intelligence about the sources and dynamics of corruption in his or her jurisdiction.

The social and systemic barriers that militate against the fostering of such leadership in public offices have already been elaborated. However, though such qualities of leadership are indispensable in public offices are indispensable for the success of any campaign by public authorities for probity, it is important to recognise that such leadership is also more likely to be fostered in an environment of social mobilisation.

### **Enforcement of anti-corruption laws**

If an officer is to be effective in policing corruption, he or she must take decisive action against the biggest sharks, the most powerful offenders, the persons with the greatest potential to create trouble. Usually the choice is just the reverse, to concentrate if at all on the smallest and weakest offenders. But this is likely to have little impact on the overall system even after significant expense of energy. On the other hand, effective and high-profile action against a small number of the biggest offenders, would result in a situation in which the smaller offenders would feel themselves constrained to restrict their corrupt activities.

In practice, the few cases of corruption by public authorities that come to light are generally soft-pedalled with departmental action, treating these as breaches of the conduct rules of public servants, rather than as criminal liability. However, there is no dearth of strong legal provisions in India, both under the Indian Penal Code (IPC) and the Prevention of Corruption Act, 1988 (referred to as the PCA).

The IPC makes the following offences by public servants punishable :

- i. Public servant taking gratification other than legal remuneration in respect of official act (Section 161 IPC).
- ii. Taking gratification by corrupt or illegal means, to influence public servant (Section 162 IPC).
- iii. Taking gratification for exercise of personal influence with public servant (Section 163 of IPC).
- iv. Abetment of offences by public servant (Section 164 IPC).
- v. Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant (Section 165 of IPC).

However, most of these offences are not cognisable in relation to public servants, and the onus of proof is on the prosecution.

The PCA contains many features that strengthen the capacity of the state to prosecute offenders for corruption. These include a wider definition of public servant, provisions to establish special courts, stringent punishment and investigation of offences related to corruption at senior levels. An important provision is the shift of burden of proof to the person accused of holding assets disproportionate to income.

Despite such strong anti-corruption legislation, weak, ambivalent detection, registration, investigation and pursuit in courts leads to very poor actual deterrence<sup>10</sup>. In India, the performance of other watchdog institutions like accountants and the press has been extremely patchy.

There is no doubt that strong anti-corruption laws are critical for the control of corruption. However, in a situation in which corruption is 'systemic' and pervasive, where both parties to a bribe benefit, and in which most victims of corruption are politically and economically relatively powerless, it is not surprising that detection and enforcement are so poor.

In the end, political will can be generated only by the organisation of public opinion of the victims of corruption as a political pressure group for the enforcement of anti-corruption laws. We will return to this in the second part of our paper.

## **Administrative reforms**

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<sup>10</sup> Palmier (1985) provides a comprehensive (although dated) description of mechanisms instituted to fight corruption and their effectiveness.

There are a large number of administrative reforms that can reduce corruption. Reforms that reduce delay, that demystify rules and procedures and promote transparency are of utmost importance. The head of the office may accomplish these in a variety of ways. She or he may identify major arenas of client interface in the office, and prepare pamphlets to be distributed free of charge and notice boards to be placed in conspicuous places, which list with clarity in local language, all relevant rules and procedures. This could include information regarding to whom one should apply, in what format or application form, rules regarding eligibility, a check-list of documents required, the time limit for application and the authority to be contacted in the event of grievance. Such information should also be actively disseminated through the local press, especially in publications with large rural circulation, in literacy and post-literacy classes, and through camps to both educate rural youth on such information and to motivate them to disseminate it in their villages. All relevant information regarding decisions involving the discretion of officials at all levels must be readily available to ordinary citizens, public representatives, NGOs and the press. The officer can also exercise control, through tours, inspections, and setting and reviewing targets in areas vulnerable to speed money corruption.

Reforms are also required to reduce the stranglehold of the state exercises over every aspect of citizen life. Decontrol of mindless regulations would also reduce corruption. While organised industry works today in a regime of dismantled control, little of this liberalisation has filtered down to the small producer in the unorganised sector, who continues to confront the old licence-permit *raj*, and its festering corruption. Again, in an agriculturally prosperous state like Haryana, there is no use for a regulatory food supply machinery, except to spawn corruption (Saxena 1996). Conscious dismantling of controls except where they are genuinely in the public interest, and simplification and transparency where such controls are continued, would be a strong systemic prophylaxis. This should not be regarded as a justification for the retreat of the state. There are many regulations that are vital for equity and public welfare, but these regulations must be enforced with far greater transparency. The sustainable management of natural resources must no longer be the monopoly of the state, and control by community institutions like the *gram sabha* must be established. Development and welfare programmes must not be designed as discretionary largesse to passive populations. Again, their planning and implementation must involve people centrally.

In summary, control of corruption is possible by stricter enforcement of anti-corruption laws, but this requires public vigilance and pressure. In the long run, the answer lies in consciously dismantling areas of state control on citizen lives, drastically reducing discretion, forcing transparency in rules and procedures, and increasing citizen participation in decision making.

## Impact Of Corruption On The Poor

There has been a recent surge of international concern with the phenomenon of corruption by public authorities. This new international concern for good governance in countries of the South may be understood at least in part in the context of globalisation, and the aspirations of many actors in the global economic arena for greater predictability in returns from their cross-country investments. A substantial body of the literature therefore focuses on the economic costs of corruption. A UNDP Discussion Paper (1997), for instance notes :

Corrupt businesses are sheltered from competition with legitimate businesses by their illegality. In corrupt systems they also operate without fear of prosecution by paying off the police and politicians or including them directly in their businesses. Illegal businesses are especially vulnerable to extortionary demands. Law enforcement authorities – from the police to prosecutors to judges—can demand payments to overlook criminal law violations or limit penalties.

[UNDP 1997:40]

Gray and Kaufmann (1998), both economists working for the World Bank, summarise the economic impact of corruption as follows :

- Bribery raises transaction costs and uncertainty in an economy.
- Bribery usually leads to inefficient economic outcomes. It impedes long-term foreign and domestic investment, misallocates talent to rent-seeking activities, and distorts sectoral priorities and technology choices (by, for example, creating incentives to contract for large defense projects rather than rural health clinics specializing in preventive care). It pushes firms underground (outside the formal sector), undercuts the state's ability to raise revenues, and leads to ever-higher tax rates being levied on fewer and fewer taxpayers. This, in turn, reduces the state's ability to provide essential public goods, including the rule of law. A vicious circle of increasing corruption and underground economic activity can result.
- Bribery is unfair. It imposes a regressive tax that falls particularly heavily on trade and service activities undertaken by small enterprises.
- Corruption undermines the state's legitimacy.

Some of these impacts would impinge indirectly on the poor, such as in the misallocation of resources away from the social sectors. However, there are also grave direct impacts on the poor, both from 'grand' and 'petty' corruption.<sup>11</sup>

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<sup>11</sup> For a good summary of empirical research in this regard, See **Book 1???**

The major impact of corruption on the poor is firstly through the likely misdirection of public investment in favour of large centralised and complex projects rather than dispersed, decentralised programmes requiring less state financial resources, to which reference has already been made. However, the reverse may also hold good, if decentralised power structures gain significant political influence, as in India's *panchayat* system. There may be an incentive then for decentralised, dispersed schemes in which vigilance and detection are weak. In both cases, however the basic principle is that decision making regarding public investment may be directly influenced much less by considerations of public welfare than by opportunities for corruption.

Corruption in fiscal management and collection also militates against the poorest, because they have less power and influence to evade direct or indirect tax burdens. It may be argued that the really poor are not tax payers, but they disproportionately bear the burden of indirect taxes and of the inflationary impacts of fiscal profligacy. In many ways, the poor actually subsidise the rich.

Further, if goods and services provided by government in the name of development and welfare are, in fact, only available for a price, the distribution of these goods and services would be severely biased against those without the capacity to pay. In theory these are precisely the people for whose social security these programmes are designed.

There is also irony in the fact that although large industry has been substantially deregulated, small petty producers continue to grapple with mindless controls, very few of which have been dismantled<sup>12</sup>. Deregulation has made almost no impact at the district and village level. One can set up an industry worth billions of rupees in India without any license today, but a farmer in U.P. can neither set up a brick kiln unit, nor a rice shelling plant, nor a cold storage, and not even cut a tree standing on his own private field, without bribing several officials. A simple operation of converting prosipis (a shrub that is plentiful in states like Gujarat), which can give employment to thousands of people requires four different permissions! Thus the process of liberalisation which has removed the shackles on industrial production in urban areas must be carried forward to the rural areas so as to widen the base of rural entrepreneurship.

According to Orissa's laws, processing of hill brooms can be done only by the lease holder, TDCC (Tribal Development Cooperative) and its traders. Tribals can collect hill brooms, but cannot bind these into a broom, or store and sell the collected item in the open market. Thus the poor are prevented both from engaging in value addition through processing and storage, and the right to get

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<sup>12</sup> Much of the following discussion is based on Saxena (1996). The interested reader is referred to this monograph for further examples.

the best price for their produce. Similar restrictions exist in several states governments.

The Government of Orissa has decided to assign bamboo forests to the paper industry, after appointing them as contractors and sub-agents of the OFDC (The Orissa Forest Development Corporation). Despite the New Forest Policy, 1988 prescription that the needs of the forest dwellers will be the first charge on the forest produce, the poor in Orissa have to meet their demand for bamboo by stealing, while the industry gets subsidised bamboo and has the first charge. Similar anti-poor measures are being introduced in Madhya Pradesh now. A large number of families have the expertise and skills of processing bamboo, and make hats, baskets, etc., but they are prevented from getting the full price for their labour, because stocking bamboo and selling bamboo products requires permission from the Forest Department. Freeing the artisans from such constraints can itself lead to a widening of the base of entrepreneurial activities in the village.

A study of two thousand flayers in four districts of Central U.P. shows that the flayers have almost no legal control over their own produce i.e. the hides they flay from the naturally fallen animals. The Zilla Parishads exercise control over the produce by awarding contracts, either to individuals or to cooperatives for collection and storage of hides. The contract provides monopoly control over the hides retrieved in the areas and hence on the flayer. Thus the flayer is forced to work at meagre wages for the contractor who reaps the profits. These small producers are subject to the tyranny of the corrupt petty officials for their day-to-day survival.

The same unrealistic legal and policy structure militates against much of the informal sector in towns and cities. In most parts of India, there are almost no legal means for someone who is very poor to secure legal access to land for shelter or livelihood. Survival and work are therefore forced into the outer fringes of illegality, which renders the urban poor constantly vulnerable to extortion by various arms of the regulatory administration.

There is no doubt that corruption, which represents serious distortion of state mechanisms for ensuring equity, development justice and order, disproportionately burdens the poor. The poor, even without corruption, are greatly disadvantaged in any interface with the state, in the ways outlined above, because of their economic, social and political powerlessness. However, this disadvantage is greatly compounded when state institutions are corroded by corruption.

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