

**ERADICATION OF CORRUPTION:
A STUDY OF
CENTRAL VIGILANCE COMMISSION**

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CERTIFICATE

Certified that the Dissertation entitled "Eradication of Corruption: A Study of Central Vigilance Commission", submitted by Shruti Sharma, in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** of this University. This dissertation has not been submitted for any other degree of this University, or any other University.

We recommend that this dissertation be placed before the examiner for evaluation.


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(SHRUTI SHARMA)

“Just as fish moving inside water cannot be known when it is drinking water, even so officers appointed for carrying out works cannot be known when appropriating money.”

“It is possible to know even the path of birds flying in the sky, but not the ways of officers moving with their intentions concealed.”

“And he should make those who have amassed (money wrongfully) yield it up and should change them in (their) works, so that they do not consume (the kings') property or disgorge what is consumed.”

“But those who do not consume the kings' goods and increase them in just ways should be made permanent in their offices, being devoted to what is agreeable and permanent to the king.”

The Kautilya Arthashastra

2/9/32-36

INTRODUCTION

Corruption, as a phenomenon, has always been surrounded by myriad shades and hues. It has different meanings in different circumstances. So, it is necessary to define the term before we elaborate and analyze its ramifications. Corruption like various social science phenomena is difficult to define because it is not possible to contain all its ramifications within a single definition. Various aspects like moral, ethical, social, political, and legal etc. are attached to it. Simplistically, corruption starts with flouting norms. All the above-mentioned aspects have certain accepted norms. A behavior pattern that flouts these accepted norms is defined as corruption. But this understanding of corruption is incomplete and misleading. Corruption is being increasingly associated with monetary aspects. To a layman, corruption is seeking illegitimate monetary favors in exchange of some service that has to be provided even otherwise. Black's law dictionary says, "Corruption is an act done with an intent to give some advantage inconsistent with official duty and rights of others." But this definition also seems to miss out the fact that if a public servant is doing an act in accordance with the law, for which he is taking a bribe is also an act of corruption. The same dictionary also adds "the act of an official or fiduciary person who unlawfully or wrongfully uses his office to procure some benefit for himself or any other person, contrary to duty and the rights of others." Even this definition fails to encompass the exhaustive nature of the concept of corruption.

Corruption as a concept theoretically, may be vague but it is very much tangible in practice. The interesting aspect is that although corruption is criticized and shunned by almost all societies ideally, it flourishes in every society in spite of it. Corruption has become a universal phenomenon. What mystifies the researchers the most is that in spite of number of organizations and institutions that have come up in order to check it, corruption remains unchecked. It becomes a challenge for a researcher at the academic level, for government at administrative level, the civil society at societal level.

Though, there are various angles attached to this intriguing concept like morality, ethics etc. I would like to concentrate upon corruption as a developmental problem. This to begin with, will help define the boundaries to which my study should stretch. Corruption, being a very complex phenomenon, is also very wide and time as well as length available would not be sufficient to encompass a broader study of the concept.

Secondly, the concept of morality and ethics vary from region to region. Something, which might be absolutely moral in one society, could be considered as grossly immoral and unethical in another. However, development is a comparatively universal process of change in a desired direction. This direction has been similarly defined specially for the welfare states. Although, the intricacies of development vary, the direction remains the same. Corruption is generally viewed as a constellation of interrelated developmental problems, which are indigenous to societies and the changes, that, they experience in their process of development. Another interesting question that crops up while studying corruption in reference to development is whether it is detrimental to development enhances it.

A phenomenon like corruption is best understood if studied in the context of one's own society and state and more so if it is studied in context of every day life of common man. So I have taken up Bureaucratic or administrative corruption in India as my focal point. Another important aspect of corruption is its control. As mentioned earlier in spite of existence of various institutions formally or informally involved in trying to check corruption, it continues to flourish. So I take up two such institutions, which are formally instituted to check corruption: namely Central bureau of investigation and Central vigilance commission. These two organizations have been taken up because of easy accessibility of details and data related to them. This would help in getting a clearer

picture as compared to a general study of institutions involved in checking corruption. India being ranked as the 72nd country by the 'Transparency International' in its corruption perception index, it would give us a better picture of conditions and hardships under which these organizations have to work. Such a study would also help in explaining the effectiveness /ineffectiveness of such organizations

CHAPTER 1

CORRUPTION: THE GENESIS AND THE PROBLEM

[The king] shall protect trade routes from harassment by courtiers, state officials, thieves and frontier guards.... [And] frontier officers shall make good what is lost ... 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.

-- From the treatise--- the Arthashastra -- by Kautilya

Circa - 300 BC- 150AD.

This citation not only reflects how ancient corruption is by nature, specially the abuse of public office for private gains, it also illustrates its corrosive effect on development. Corruption has always been inseparably linked to development and so is of special concern to the developing countries. Developing countries, as it is, have very limited resources, most of which are expropriated by people paying and receiving bribes leaving very little for its poorest citizens.¹ The situation is worsened where corruption becomes systemic and entrenched. In such cases even the countries with extensive natural resources may fail to develop in a way that benefits its ordinary citizens. So for a country to develop to the best possible extent, the study of corruption the specific measures required to check it becomes very essential. Corruption, by this stream of thought, is considered the greatest hindrance to development.

Corruption is often spoken of as a symptom of a disease, sometimes even regarded as an illness itself, often compared to aids. It is regarded as aids of democracy spreading relentlessly from official to official; agency to agency undermining institutions

¹ Michael Johnston, "What can be done about entrenched corruption?" Background paper to *Annual World Bank Conference on Development Economics* (Washington DC: World Bank, 1997).

until the political system they represent collapses.² So in this view corruption must be eradicated so that the system can return to health, preferably it should be nipped in the bud.

According to the other point of view championed by Michael Johnston, corruption is a serious problem no doubt, but its metaphoric comparison to illness is a misguided thought. While trying to draw a parallel between corruption and illness we forget that corruption is not a problem that happens to otherwise healthy societies. Johnston also contradicts the view that it leads to total collapse by giving instances of Germany and USA, which actually prospered in spite of it and even Nigeria and Bangladesh survived without reaching a total collapse. Another section of scholarship led by Rose Ackerman views corruption as a constellation of interrelated development problems, which are indigenous to societies and the changes that they experience.³ Rose Ackerman points out that corruption is a symptom of deeper difficulties. Various scholars have highlighted some such difficulties associated with corruption are: -

- Some economic growth [According to Mauro]
 - Reduced investment, feeble property and control rights, ineffective institutions [According to Knack and Keefer]
 - Limited social interaction and weak rule of law [According to Cooter]
 - Poor economic competitiveness [According to Ades and DiTella]
 - Deep ethnic divide and weak protection of civil liberties [According to Ishan, Kaufman and Pritchett]
 - Low educational attainment [According to Mauro]
 - Closed economic and political system [According to Elliot]
- This view supports that corruption is detrimental to corruption.

² *Ibid.*

³ Susan Rose Ackerman, "Corruption and Development", Background Paper to *Annual World Bank Conference on Development Economics* (Washington DC: World Bank, 1997).

There is also in circulation a revisionist view supported by Nathaniel Leff, Francis Lui etc that contrastingly hold that corruption may not be inconsistent with development. Rather, at times corruption at times even fosters development. Corruption according to revisionists like Nathaniel Leff introduces an element of competition into an otherwise monopolistic industry.⁴ In such cases payment of highest bribe becomes one of the principal criteria for allocation. Thus, a tendency toward efficiency is introduced into the system. The problem here is that such contradictory versions lend ambiguity to the concept of corruption. The ambiguity starts right from the meaning of the term, which is culturally defined and hence changes according to cultures. Something viewed as corrupt in developed west might be interpreted differently according to the customs of emerging economies. Ambiguity has its effect on development because some of the Asian Tigers saw both phenomenal growth and phenomenal corruption simultaneously. Although, the ethical failings associated with corruption are not disputed but these ambiguities about corruption, its causes, effects and cures put a question mark on the importance of fighting it. The dilemma whether fighting corruption is a true priority or rhetoric one emerges. Since corruption is usually considered evil, its very existence is a cause for concern. But to reach a conclusion, an understanding of corruption's effect on the efficiency and equity of a system becomes imperative. The revivalists have presented a case in favors of corruption and its effects on efficiency and equity.

"Grease the wheels argument", as the revivalists' view is often termed, says that bribery induces efficiency by cutting through red tape of burdensome regulations and ineffective legal systems.⁵ But as Kaufman observes, acts inspired by this argument instead of greasing the rigid administration ends up greasing the wheels of more excessive and discretionary regulations. This is because corruption increases the level of discretion enjoyed by politicians and bureaucrats especially in the making of the regulations. Moreover, there are always a core of laws and regulations specially those

⁴ Daniel Kaufman, "Corruption: The Facts", *Foreign Policy*, Summer 1997, pp. 114-131.

⁵ *Ibid.*

serving the social objectives. Overriding such regulations will always be counterproductive to development.

Another argument countered by Kaufman is that 'speed money' enhances efficiency by cutting down the paperwork. According to him, the flaw here is in the very presumption that after striking the deal there would not be further demands for bribes. Efficiency argument is defeated also because multitudes of officials are involved in decision making, so the bribed officials can not process the approval faster. He can only slow down the approval process for the rivals. An economic variation of this argument claims that corruption allows supply and demand to operate. The argument is based on the assumption that since the lowest cost firm will be able to afford highest bribe in competitive bidding. However, Kaufman feels that such bribes are diverted from treasury revenues, impair microeconomic stability and negate the potential productive use of such funds.⁶ In such case however, the highest bidding capacity instead of stemming from cost effectiveness might also stem from substandard quality. Such objects of illegal payoffs are dealt in secrecy rather than having competitive bidding. Secondly, many social objectives demand that the public goods ought not be allocated to the highest bidder, as resources have to be allocated according to the needs of the recipients and the bribes as an allocating mechanism subverts this goal. Corruption, thus, acts as a hurdle in the provision of social programs to the intended target groups and hurts the poor. Another problem with this argument is that since corrupt transactions cannot be enforced through a court of law, there is no rule of law and so no guarantee of getting goods even after paying the bribe. Corruption also entails a significant economic cost. Talent is misallocated as jobs having greater chances of getting 'speed money' attract candidates whose prime motive is to make money rather than those candidates who have an aptitude for the job offered. Corruption leads to poor technological decisions that are made in favor of nonstandard, complex and expensive, capital intensive projects, which facilitate siphoning of large sums. Last, but not the least is the time lost in striking deals.

⁶ *Ibid.*

maintaining secrecy of deals and illicit payments and ensuring guaranteed delivery of goods. All these activities are ultimately done at the expense of productivity of the company.

Another casualty in the game of corruption is average citizen's perception of social equity. This perception goes a long way in determining efficiency of the system. Edgardo Buscaglio points out that has an effect on this social equity perception and it determines whether efficiency enhancing or rent seeking activities will prevail.⁷ Contrastingly, Rose Ackerman believes that corruption enhances efficiency specially the payoffs to queue managers can be efficient because such payoff create incentives to work quickly and favors those who value their time.⁸ This analysis according to Buscaglio disregards people's perception and so has a negative effect on long-term efficiency and development. The effect on people's perception has been studied by Homans who shows that in any group the relative status of any member is determined by the groups' perception of the member's contribution to the group.⁹ An increase in a member's wealth without a perceived increase in that member's contribution to the group will generate hostility among the other members of the group. However, an unjustified increase in wealth violates the average citizen's perceived inequality. This inequality has a long-term effect on social interaction and economic efficiency. A perceived inequitable allocation of resources discourages non-corrupt people from generating wealth

Researchers and data also give evidence of the negative impact of corruption on development. An empirical study of Paolo Mauro, an economist show that a relatively non-corrupt country achieves an aggregate investment level of 5% more than that of a corrupt one.¹⁰ Mauro also found that corrupt countries spend less on education, which

⁷ Edgardo Buscaglio, "Corruption and Judicial Reform in Latin America", *Policy Studies Journal*, Vol. 17, No. 4, pp. 273-286.

⁸ Ackerman, See n. 3.

⁹ George C. Homans, *Social Behaviour: Its Elementary Form*, (New York: Harcourt, Brace, Jovanovich, 1974).

¹⁰ Paolo Mauro, "The Effects of Corruption on Growth, Investment and Government Expenditure: Across Country Analysis." in Kimberly Ann Elliot (ed.), *Corruption and Global Economy* (Washington D.C :Institute For International Economics, 1997).

slows down development. Mauro demonstrates that high levels of corruption are associated with lower levels of investment as a share of GDP in a cross section of countries. He also presents an investment risk index, based on eleven factors from the Business International Index that shows the higher risk countries record both lower investment rates and lower growth rates.

Similar studies also show the statistical relationship between corruption and lower foreign direct investment. Even the East Asian 'Miracle' economies that are often sighted as examples of corruption along with the development by corruption by the 'corruption apologist' were not immune from this. As study by Shang Jen Wei, shows that investing in a corrupt country is equivalent to an additional 20% (private) tax on investment when compared to investment in a comparably incorrupt country.¹¹ Various surveys show that Public sector corruption was not severe developmental obstacle in developing countries as it was created to foster the developmental needs of emerging economies.

All these and many more studies highlight the negative impact of corruption on development. Especially when a large part of resources available for development are consumed in enlarging the take of various official through out the hierarchy. The severity of the damage caused can be assessed by the statement made by a former prime minister of India, Mr. Rajeev Gandhi "For every spent on the anti poverty program, only 15 paise reach the beneficiary ", rest siphoned of by t he officials on the way. Out of the remaining 85paise. 40 paise. Perhaps can be accounted for administrative overhead and 45 paise is pure corruption. If corruption can be checked without even increasing the budget the beneficiary can benefit for 100% more.¹² The view of corruption from the developmental problem angle gives a clearer picture of how it exists in practice .It is crucial to understand the broader context in which it occurs and with which it interacts. At this point it is necessary to understand why exactly do these rent-seeking tendencies emerge.

¹¹ Shang Jen Wei. "How Taxing is Corruption on International Investors?", Harvard University, Kennedy School of Government, Cambridge, 1997.

¹² N. Vittal , "Initiatives for Tackling Corruption in Public Life in India." Paper presented at international video link session at British Council, 2002. New Delhi.

Emergence of Rent Seeking Tendencies

Krueger has dealt with this problem by assuming a basic model where there is free trade and absence of rent-seeking tendencies.¹³ From here the model advances and the ultimate stage has no free trade and rent-seeking tendencies emerge. In the basic model there are only two activities: export and import – food is produced and exported and consumer goods are imported. There is free entry in both these sectors and competition equates the wage in the two activities. Free trade is an optimal condition and Krueger assumes that in such a scenario rent seeking is absent.

The second stage develops a tendency of import restriction but rent seeking is absent even in this stage. Restriction of imports means that the import quantity would be less than what was realized under the free trade model. This would imply that the competitive wages are no longer equal. The reduced import level will reduce the labor employed in the distribution and increase labor force in agriculture. Diminishing returns will reduce the agricultural wage. The domestic price of imports, the distributive margin and the wage of distributors will increase. Distributors here will earn a rent in the sense that their wage will exceed the wage of those engaged in agriculture. In the absence of rent seeking, a tariff and a quantitative restriction are equivalent as the change in price of the import from the free trade solution is the tariff equivalent of the quantitative restriction. But this does not include the resultant income distribution. Under a quantitative restriction the distributive wage is higher than the agricultural wage. In case of equivalent tariff with redistribution of the proceeds, the marginal product of labor in agriculture would remain the same but the agricultural workers would benefit by the amount of tariff proceeds redistributed to them. Whereas, traders' income would be lower. Since the allocation of labor under tariff and quantitative restriction without rent seeking is the same and domestic prices are same, the only difference between the two situations lies in income distribution.

¹³ A. Krueger, "The Political Economy of the Rent Seeking Society." , *American Economic Review*, Vol. 64 (3), June 1974 . 291-303.

The third case is of import restriction with competitive rent seeking. In the import restriction model discussed above, the wage in distribution exceeds the wage in agriculture. People in such cases will seek distributive rents until the average wage in distribution and rent seeking equals the agricultural wage. Agriculture production and food consumption are reduced by the introduction of rent seeking as the labor that enters rent seeking can only come from agriculture. Since the import level remains unchanged rent seeking entails a welfare loss beyond that for an import restriction without rent seeking. The domestic cost of imports will be lower under rent-seeking competition. For any level of import restriction, competition among rent-seekers is inferior to tariff equivalent of the restriction. In that case there could be more food consumed with no fewer imports under the latter case than the former. To the rent seeking is competitive, the welfare cost of import restriction is equal to the welfare cost of the tariff equivalent plus the additional cost of rent-seeking activities. The number of persons engaged in distribution declines from free trade to import restriction without rent seeking and increases as one goes from that situation to competition for import licenses. Similarly agricultural output increases between free trade and the tariff equivalent case, and declines between that and rent seeking. The value of rents reflects the value of the domestic factors of production at current prices which could be extracted from the economy with no change in the final goods and services available for society's utilization. Thus, if the value of rents is known, it indicates the volume of resources that could be transferred out of distribution and into other activities with no loss of distributive services from an initial position of rent-seeking activity. The estimates of rents in India, for example, may be interpreted, as the dead weight loss from quantitative restrictions in addition to the welfare cost of their associated tariff equivalents if one believes that there is competition for the rents.

The value of the rents overstates the increase in food output and consumption that could be attained with a tariff to the extent that the marginal product of labor in agriculture is diminishing since the equilibrium wage will rise between the tariff and the competitive rent-seeking situation. In the case of a constant marginal product of labor in

alternative uses, the value of rent will exactly measure foregone output. A tariff has both production and consumption costs and rents seeking entails costs in addition to those of a tariff. An import prohibition might be preferable to a non-prohibitive quota if there is competition for licenses under the quota. This follows immediately from the fact that a prohibition would release resources from rent seeking and excess cost of domestic production might be less than the value of the rents. Moreover tariff equivalent of two or more quotas cannot be ranked because the value of rents is a function of both the amount of rent per unit or tariff equivalent and the volume of import of each item. Another point is, that it has generally been accepted that the most inelastic domestic demand, the welfare cost of a given tariff is likely to be less but in quota cum rent case it is vice versa. The more the price, inelastic is the demand, the greater will be the loss of rents and so greater the deadweight loss associated with rent seeking.

It is generally believed that the competition among importers will result in a better allocation of resources than a monopoly. In case of rent seeking, the possibility of creating monopoly position for one importer will generally result in a higher real income if not in a preferable income distribution for society. Finally, the devaluation under quantitative restrictions may have important allocation effects because it diminishes the value of import licenses and hence the amount of rent seeking activity, in addition to its effects upon exports.

Empirical evidence suggests that the value of rents associated with import licenses can be relatively large, and it has been shown that the welfare cost of quantitative restriction equals that of their tariff equivalent plus the value of rents. While import licenses constitute a large visible rent resulting from government interventions, the phenomena of rent seeking is far more general. Because of fair trade laws, firms of less than optimal size emerge; minimum wage legislation generates equilibrium levels of unemployment above the optimum with associated deadweight losses.¹⁴ Such

¹⁴ *Ibid.*

interventions lead people to compete for the rents although the competitors often do not perceive themselves as such. In such cases there is a deadweight loss associated with that competition over and above the traditional triangle. Only restricting entry into the activity for which a rent has been created can prevent this loss. But this has political implications. Firstly, even if they can limit competition for the rents, governments, which consider that they must impose restriction, are in a dilemma. If they do they are accused of showing favoritism to one group in society and are choosing an unequal distribution of income. If competition for rents is allowed, income distribution may be less unequal but economic costs associated with quantitative restrictions will be higher. The existence of rent seeking affects people's perception of economic system similar to Homans' idea of peoples' perception of corruption.¹⁵ Krueger says that one's perception of the price system as a mechanism rewarding the rich and well connected may also be important in influencing political decisions about economic policy. In such a scenario the temptation to resort to greater interventions and thus increasing the amount of economic activity devoted to rent seeking is inevitable. A political "vicious circle" may develop. As people perceive that market mechanism is not compatible with socially approved goals because of competitive rent seeking. A political consensus therefore emerges to intervene in the market further. As rent seeking increases supplementary market intervention results and we have a case of entrenchment of rent seeking activities.

All market economies have some rent generating restrictions. Krueger says that a continuum can be perceived between a system of no restrictions and a perfectly restricted system. In the former, there would be quest for new technology, anticipation of market shifts correctly to achieve windfall gains. While in the latter, there would be an all-pervasive rent seeking that it would be the only perceivable route to achieve gains. However, neither of these two extremes can ever exist, as there might be some point along the continuum beyond which the market fails to perform its allocative function to any satisfactory degree. Another important factor in the study corruption is the practices that are associated with corruption.

¹⁵ Homans, see n. 9.

The Practices Associated With Corruption

The distribution of benefits and imposition of cost is usually controlled through agents who possess discretionary powers in all states whether benevolent or repressive. Private individuals or firms who want favorable treatment may be willing to pay these agents. This tendency is justified by the concept of 'Market System' i.e., what is wrong in paying for what you want! But the problem is that person receiving the payment is an agent responsible to a principal, whose goals seldom align with the person making the payment. Low level bureaucrats are agents of their superior official, minister of their governing coalitions, elected officials of the voting public, judges are responsible to legal norms. Such payments are generally made with the goal of obtaining a benefit or avoiding a cost. So they cannot be treated as merely as transfers. Such transactions are highly correlated with other measures of bureaucratic efficiency, amount of red tape, quality of judiciary etc. If the bureaucracy is efficient, red tape negligible, quality of judiciary high, the incentive corruption is majorly reduced. Rose Ackerman has cited six features that create incentive for corrupt behavior:¹⁶

Bribes that equate supply and demand

The government may allocate a scarce the benefit to individuals and firms using legal criteria other than willingness to pay. Thus bribes also clear the market. In practice, corrupt officials can exercise monopoly powers determining the quality of services provided, by setting the supply below the officially sanctioned level to increase the economic rent. The corrupt officials may even increase the supply of services if the government has set the supply below the monopoly level. In other cases, where the quality does not matter, like license, pension, passport etc. corrupt officials create scarcity by delaying approvals or withdrawing them till the bribes are paid. Shleifer and Vishny talk about 'corruption with theft', where bribes are paid to permit the unqualified, obtain

¹⁶ Ackerman, see n. 3.

the benefits. In such cases people, least qualified for service are most willing to pay, as they cannot legally obtain the benefit.¹⁷

Bribes as Incentive payments for Bureaucrats

Public officials may have little incentive to do their jobs well because of low pay and inadequate monitoring. Bribes, in such cases act as incentive payments. Bureaucrats to justify their corrupt behavior generally use this argument. Bribes are generally paid to receive good services or to avoid delays. Rose Ackerman is of the view that such payments can induce efficiency by acting as incentives. However, such 'routine' corruption can become extremely problematic. Besides, some incentive payments may even 'encourage inefficient efforts to maximize financial rewards'.¹⁸

Bribes Lower Costs

Private individuals may seek to lower the costs of taxes, duties and regulations imposed upon them by the government, by paying for relief from these costs. Sometimes such payments are made to bypass the laws imposed by slow and ineffective legal systems and hence might even enhance efficiency. But the case is not in every circumstance to avoid inefficient rules and similar state imposed burdens, justified or not. Such corruption is specially damaging for nations struggling to build viable institutions. so public opinion and institutions should be aggregated to establish commitment for the enforcement of such laws. Attitudinal change rather than institutional change is desired in such cases.

¹⁷ Andrei Sheilfer and Robert Vishny , "Corruption", *Quarterly Journal of Economics*, Vol. 108 (3) 1993 599-617.

¹⁸ Ackerman, see n. 3.

Bribes to Obtain Contracts and Concessions

The government may confer large financial benefits on private firms through contracts etc. Bribes affect the level of monopoly rents and their allocation between private investors and public officials especially when the benefits disbursed are scarce. In such cases the officials involved are top officials who are effectively insulated from prosecution and so are less restraint in their demands and have far reaching economic consequences. Here, apart from uncertain economic scenario, the cost to the nation also includes lost tax revenue and inefficient investment projects.

Bribes to Buy Political Influence and Votes

Bribes may substitute for legal forms of political influence. Bribery of politicians buys influence and bribery by politicians buys votes. Parties involve large amount of money in the political campaigns especially during elections. Although democracy provides an opportunity to the citizens to weed out the corrupt; it doesn't provide a cure against corruption. Bribes are used in elections to purchase votes. The private firms and industrialists who have a stake in the political decisions provide money willingly

Bribes to Buy Judicial Decisions

The judiciary may have the power to improve costs and transfer resources between litigants. Bribes can override legal norms. Judicial decisions have the power to effect distribution of wealth. Officials enjoying such power may be tempted to accept illegal payments, more so when they are under paid and over burdened. Corrupt judiciary introduces uncertainties into the business climate as legal norms are freely flouted and there are no rules of the game.

Corruption thus becomes embedded and entrenched in a social setting with the help of many complex associations that it seeks to create. This entrenchment helps to

sustain corruption as well as show its consequences. Such entrenched corruption can be political, bureaucratic or both. Though these variants i.e., political and bureaucratic differ, the relationship between them is very important. Entrenched corruption is not necessarily more visible, as the watchdog agencies may be too weak to blow the whistle .It is neither necessary disruptive, as it is generally believed to be because it is tenacious and generates a kind of equilibrium, which averts disruption.

The Entrenchment

Developmental problems like feeble and sporadic political competition slow or uneven economic development and a risky investment climate generate and perpetuate corruption. Corruption, in such settings is looked upon by citizen and investors as inevitable, leading to a hopelessness rendering impotent the demands for reforms. Such response narrows down the alternatives of dealing with the corrupt officials. These officials who have a stake in it, succeed in preserving these situation because there are very few citizens or businessmen who are willing to take initiative to confront them directly. Entrenched corruption diverts the developmental resources and saps the political and social vitality that society needs to use their potential optimally. Many of the institutional and civil services reforms, which are deployed, are rendered useless because of the resistance offered by such corruption. As is the belief this is not the end game of chaos, but is well-organized and embedded in political and economic context. The extended aspects of the problem like extended clientele and dependency also fosters equally harmful and corrupt activities.

Entrenched corruption thus generates a kind of equilibrium. Michael Johnston uses the term 'Settling Point' for the equilibrium thus created.¹⁹ By equilibrium he means a state in which the corruption is more or less static, the fact is accepted by the payers and preserved by those reaping its benefit .In the equilibrium state the move to eradicate it is

¹⁹ Johnston, see n. 1.

either non-existent or impotent. However, Johnston also suggests that this is not the only equilibrium that can exist. He like Ackerman believes in the existence of a low equilibrium, which benefits from accountable politics and administration and also helps its sustenance. Both Johnston and Ackerman believe that altering the political and economic environment can create such equilibrium. According to Ackerman high corruption equilibrium develops when the rewards for corrupt behavior increase with the incidence of the corruption. Conversely, corruption remains limited if the probability of being caught increases with the size and incidence of bribery. In such cases very few people pay bribes and those who do have to pay large sum so it is discouraging for both payers and takers. Before delving into these alterations to understand features, which define the degree of entrenchment.

Michael Johnston talks of three features, which help us, know the degree of entrenchment of corruption. These features can be equally present in politics and administration or bureaucracy.²⁰ The first feature is, Pervasiveness, that means corruption is so common throughout the entire country that there are few practical alternatives to deal with corrupt officials. This does not mean that every citizen encounters corruption everyday. However, as corruption grows in intensity the most significant abuses shift upwards to the elite. For instance in the Indian context, in the Nehruvian era the chief minister of Punjab was accused of being corrupt. In spite of being closely associated with Nehru the proceedings against him were carried on and Nehru did not try to shield him. The Indira era saw further entrenchment of corruption and corruption reached the PMO although the Prime Minister herself was not directly involved. Then, the Rajeev Gandhi, the then Prime Minister was accused of corruption in the Bofors case, followed by Narasimha Rao who was implicated in a case of corruption. However the perception that corruption is pervasive may be as much a matter of expectation. Such expectations are cultivated by political or bureaucratic middle men who have a stake in maintaining public

²⁰ *Ibid.*

dependence on their services as is highlighted by Oldenburg.²¹ Such pervasive corruption is found in political and bureaucratic forms.

The second feature, incorporated by Johnston is Corruption being organized. Such corruption involves shared knowledge and vertical exchange of benefits. It creates and facilitates an internal economy linking principals and agents. The principals are elites who provide protection, make major decisions and control the discretions and powers of the agents. They confer or withhold the shares of bribes or takes. In return, political or bureaucratic agents pay for their spoils through loyal support. Organized corruption denies the client the alternative, giving the organization more leverage. A network of operatives is created which becomes very dense as not only the rewards but also the risks are shared. Since the risks are also shared the operatives have a stake in keeping corruption hidden, increasing its proceedings and freezing critics and non-corrupt agents and clients. This helps in creating a secure environment free of any danger of whistle blowing. Well-organized corruption is a sign that political opposition, bureaucratic checks and balances and private economic alternatives have been weak for quite some time.

The third feature pointed out by Johnston is monopolistic. It means that corruption has a monopoly; it faces no meaningful political opposition or economic competition. Thus, making it harder to eradicate and allows corrupt operatives to generate maximum benefits over a long period of time. Officials enjoying a monopoly over corruption can deliver important benefits in exchange of large payments from major economic interests. These economic majors are forced to make such payments as they have few economic alternatives apart from engaging in corruption on the official terms. The monopoly dimension of corruption is complex in the sense that it differs between political and economic realms and creates political instabilities.

²¹ Philip Oldenburg, "Middlemen in Third World: Implications of an Indian Case", *World Politics*, Vol. 39 (4), 1987, pp. 508-35.



These three features are not necessarily related. Some corruption is pervasive without being organized, monopolistic without being pervasive, and so on. But when the three characteristics combine, when corrupt officials extend their activities throughout the jurisdiction, organize their practices and drive out their political and economic competitors, corruption becomes extremely severe and damaging. Here it creates an equilibrium that is difficult to break especially if only the administrative and personnel remedies are used.

After elaborating the features Johnston moves on to list the effects of corruption. He classifies the effects of corruption according to the presence or absence of these features in a unit. As the degree of entrenchment increases in a society, those harmed by it are more likely to adapt to it rather than combat it. M. S. Alam identifies three kinds of 'countervailing actions' that the losers of corruption might resort to:²²

1 *Evasive Actions* - like reduced dependence on corrupt officials by relocating, finding alternative goods or forgoing the goods altogether.

2 *Direct Actions* - like raising the cost or risk of corruption to officials by protest, political action, protest to watchdog agencies or violence.

3 *Illicit Actions* - like fighting corruption with corruption.

Where corrupt organization have eliminated political competition or reduced economic alternatives or where they protect their monopoly using intimidation or violence, direct action is risky. Evasive and illicit action is more attractive here but they fail to reduce corruption or create effective opposition to it

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²² M. S. Alam, "A Theory of Limits on Corruption and Some Applications", *Kyklos*, Vol. 48 (3), 1995, pp. 419-35.

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Entrenched Corruption of Government

Rose Ackerman gives a very interesting idea that a country's level of corruption depends not only on its potential for economic rents but also on its political structure.²³ Any sort of attempt to check corruption can be effective only under certain politico-economic condition. She takes into account two dimensions to give four types of stylized corrupt states. The dimensions being –

Firstly at what levels the corruption is concentrated. Secondly, the bribery market- i.e. how decentralized is the payment of bribes Taking these two dimensions she creates four stylized corruption states namely-Kleptocracies, Bilateral Monopoly, Mafia dominated states and competitive bribery states.

Kleptocracies

In a pure kleptocracy the head of the state organizes the political system to maximize the possibilities of extracting rent and reallocating these rents for personal use. In such a system all the three feature of Johnston's entrenched corruption can be seen into play.²⁴ This corruption is pervasive, well organized as well as monopolistic. Mancur Olson gives such kleptocrat the name 'Stationary Bandit' who is striving for productive efficiency but restricting economic output to maximize profit.²⁵ They may even resort to rent extraction through violence but such tools being imperfect can increase the uncertainty of their tenure. Strong Kleptocrats run brutal but efficient states while weak ones run intrusive and inefficient mostly because of their effort to extract bribes.

²³ Ackerman, see n. 3.

²⁴ Johnston, see n. 1.

²⁵ Mancur Olson. "Dictatorship, Democracy and Development", *American Political Science Review*, Vol. 87 (3), 1993, pp. 567-75.

Bilateral Monopoly

Here, the corrupt ruler faces a single largest briber and the possibilities of rent extraction are shared between the two. Their relative strength determines the size as well the shares of the take. Some times this single briber is the Mafia i.e., an organized crime group that provides protective services, which under normal circumstances should be provided by the state. In this case the state shares Mafia's gains. Some states may have firms extracting minerals or producing some goods or some other some business as their partner in corruption. Though corruption may not be overt, nevertheless the harm to ordinary citizens is severe, as in such cases, the state becomes the appendage of large investor incurring distributive and efficiency losses and forfeiting the ability to tap the profits of economic activities and the economy loses its ability to respond efficiently to the changing conditions.

Mafia-dominated states

Here the state is weak and disorganized with many officials engaged in freelance bribery. Here the corruption might be pervasive but it is not organized. Here also there is a monopolistic briber in the private sector that bribes these officials. These private groups could be Mafia or any other business group, which buys the cooperation of lower-level officials. The state's disorganization and weakness however limits group's ability to buy the benefits it wants, as an agreement with one official will not discourage the other from coming forward.

Competitive Bribery states

In this case there are large numbers of corrupt officials deal with a larger number of bribers who could be citizens or private firms. This type has a fundamental problem that the corruption spiral has the potential for an upward movement, which makes it complex. After having an idea of various features and classification of corruption, let us

look at the actors involved. Various actors involved are the bureaucrats, the politicians the watchdog agencies, and last but not the least the civil society.

The Bureaucratic Problem

It is interesting to study bureaucratic corruption, as most of the bureaucrats do not face full-blown competition from other governments or agencies performing identical functions, even when several agencies deal with a sector that varies in specializations. These agencies cannot abolish one another or drive each other out of business. But they can create lasting and lucrative networks by colluding and thus sustain economic and political dependence. When bureaucratic corruption is not pervasive officials indulge in freelance bribery. Here private individuals with modest payments initiate the deals. As and when corruption becomes pervasive, its occurrence grows. In such cases the number of members society offering payments grows and individual functionaries or small groups may see bribes and practise extortion on a regular basis. In case of small groups colluding, they may share the take and perform specialized roles but here what is taken at the front counter or the street-level stays there. Here the agents do not share with the principals and rents are likely to be more moderate.

However, when bureaucratic corruption becomes vertically organized, it reaches a higher level of entrenchment. In such cases, the complexity of network increases due to the upward movement of corruption spiral. Now a share of agent's take is shared with the principal. This sharing may begin as protection payments to the superior, but gradually it may even evolve as a condition of employment. Shleifer points out another aspect and Vishny is that the emphasis also shifts from 'corruption without theft' to 'corruption with theft'.²⁶ In the first case, agents keep aside payment but pass the full nominal of the good to the public treasury. In the latter case, the agent keeps some or whole of the fee and the treasury receive little or nothing. Low level agents who do not enjoy protection find

²⁶ Shleifer and Vishny, see n. 17.

"Corruption without theft " easier to conceive. It also keeps corruption within limit. But with vertical organization 'corruption with theft' grows rapidly. This is because there is an increase in the number of claimants for the take and the official protection that is enjoyed by such corruption. "Corruption with theft" becomes mandatory and socially acceptable when bureaucratic salaries are not related to the cost of living. But without close integration of bureaucratic and political corruption there is a chance that corruption is not totally entrenched.

Specialization can be a source of instability in pervasive, vertically organized corruption. If many agencies with specialized function can extract monopoly rents for the same industry, they might kill sources of bribes as the payers might adopt evasive actions. But Schleifer and Vishny point that if these agencies coordinate corruption among bureaucratic functions or levels of government, creating a joint monopoly instead independent monopolies, the result could be smaller individual payments but a much larger take in the large run.²⁷

Independent monopolies can persist if one agencies such as the police deals with many economic activities or if a business can not easily move or is in itself a monopoly, coordinate bureaucratic harassment and selective law enforcement can be used to pressurize those who are reluctant to pay. Unless political leaders send credible signals that critics of corruption will be protected and supported, direct countervailing action will be rare. In this way bureaucrats extend their influence outward into society, creating an unfavorable economic and investment climate where shortage of alternatives can further solidify their power.

The political leaders who oversee bureaucrats know that they can loose power because of corruption or ineffective policies. Supervision from above, scrutiny from outside and structural checks and balances mean that individual official or small groups

²⁷ *Ibid.*

do not have monopoly discretion and they find it difficult to organize and coordinate corruption on a large scale. This brings the society from high corruption equilibrium to a relatively lower one. Now the corruption occurs but is kept within limits. However, this requires supporting legal and institutional reforms. The goal is to establish development that undermines the monopolies and organization of entrenched corruption while strengthening the forces that help sustain low corruption equilibria. Stronger political and economic competition can encourage greater accountability, further broadening economic alternatives and strengthening interests in civil society and weaken the political and bureaucratic leverage underlying entrenched corruption. Over a period of times this virtuous circle of development checks corruption while enhancing low corruption equilibrium and entrenching reform in the broader political and economic scenario.

The Political Actors

The interesting aspect is the interconnection between bureaucratic and political corruption and the variations that the shades of the relationship between them produce. Political and bureaucratic corruption can exist in each other's absence and different interconnection between them produce different pattern of extended clientelism in the society. However, the more serious either type of the corruption becomes, the less likely it is to exist independently. An interlocked system of entrenched bureaucratic and political corruption is a powerful force and the distinction between them might actually disappear. In such cases, the political leaders may have the formal duty and powers to confront bureaucratic corruption but they do so only in response to compelling problems and crises. McCubins and Schwartz term this "fire alarm" oversight as contrasted with 'Police Patrol' approach, which keeps a continuous watch over bureaucrats.²⁸

Michael Johnston, however feels that despite the above arguments, the fire alarm model is not altogether ineffective as unsystematic oversight is an inadequate safeguard

²⁸ Mathew McCubins and T Schwartz, "Congressional Oversight Overlooked: Police Patrols vs. Fire Alarms", *American Journal of Political Science*, Vol. 28 (1), 1984, pp. 165-79.

and if organized and coordinated, corrupt bureaucrats can respond by covering up their dealings more effectively.²⁹ However, the model of oversight and political initiative against bureaucratic corruption will depend on the balance of power between the two realms and in this corruption will depend on the balance power between the two realms and bureaucrats have significant advantages. In absence of compelling domestic or international pressures, political leaders may tolerate bureaucratic corruption if it:

Allows them to share its spoils or if their position is weak or compromised.

Benefits favoured interests or helps buy off potential opponent.

Provides enough income to bureaucrats to make tax increases less necessary.

Helps build support for political leaders' desired policies or cushions their impact.

Moderate conflicts among bureaucratic factions, particularly if corruption cleanups seem likely to mobilize elite opposition.

Apart from all these, reforms seem likely to produce major economic disruption and politicians may conclude that its immediate costs outweigh its prospective benefits.

Several things have to be taken into account once the political will is determined to route out corruption .the most often cited justification by bureaucrats for corruption is the low salary paid to them. As Besley and McLaren show that the 'reservation wage' that is wage the officials would earn if in private sector, is substantially higher than the 'capitulation wage'.³⁰ This is the major force acting on the officials. Johnston believes in the payment of fees for services directly to the officials would raise pay and reward efficiency.³¹ However such fee for service should be allowed only on a selective basis and only for routine bureaucratic functions to enable better supervision and regulation. Rose Ackerman also believes that best candidates are 'cases where corruption's only

²⁹ Johnston, see n. 1.

³⁰ Timothy Besley and John McLaren, "Taxes and Bribery: The Role of Wage Incentives", *The Economic Journal*, Vol. 163 January, 1993, pp. 119-41.

³¹ Johnston, see n. 1.

efficiency stems from its illegality'.³² Another aspect that should be checked is the vertical organization and horizontal spread and coordination of corruption through regular and stringent monitoring and checking and subject the cases to checks and balances.

Watchdog Agencies

The basic reason of corruption becoming entrenched is that the citizens see corruption as inevitable and reform futile. A feeling that there are no alternatives to deal with corrupt officials settles in the minds of the people. This leads to creation of an equilibrium where the move to eradicate it is non-existent or impotent. In such cases the citizen's alternatives are crossed off and organization gains more leverage. Major economic interest also has to follow the suit as even they have few alternatives to engaging in corruption on the official terms. Any opposition or criticism in such cases is silenced by coordinate bureaucratic harassment and selective law enforcement. All this suggests that the watchdog agencies have either not been given enough powers or have not been functioning satisfactorily for quite some time.

Rule of law is emphasized because it replaces arbitrariness with accountability and personal power with predictable institutionalized authority and it defines the ways in which the state and society can interact. Its enforcement requires a strong and independent judiciary, investigating and auditing bodies and legitimate paths of access between state and society. Apart from all these, such watchdog agencies would not be able to help much if they do not enjoy the support of public opinion as well as political will. As is seen, most of the countries have such institutions very much in place but they are either redundant or too weak to effectively raise their voice against corruption.

³² Ackerman, see n. 3.

Society as an Actor

Another and perhaps the most interesting player in the game of corruption is civil society. The political and economic problems that corruption engenders seriously weaken the civil society. But organized, active groups in the civil society can check on the state as well as become the basis of countervailing actions. They are critical to accountability because 'transparent procedures' mean little if there is no external monitoring. Corrupt states have numerous inspectors, commissions of inquiry, record keeping requirements that create and conceal corruption rather than reveal it because no one outside the state can demand a meaningful accounting. Without a strong civil society to energize them, even a set of formally democratic institutions will not produce accountable, responsive government. Strong civil groups function as 'law merchants'. According to Cooter, they promulgate codes of good practise and can impose modest but socially significant anti corruption sanctions relatively quickly using a lower burden of proof than is required for criminal penalties. When it exists within a legitimate state, an active civil society can help in forming a network integrating legal and social norms a comprehensive value that is more likely to be obeyed than laws alone.³³

Evaluation framework

Since corruption is a multifaceted phenomenon, with so many actors and factors involved, the potential actions to curtail it are also large and multifaceted. Prioritization of various actions would require a framework made in accordance to the needs of the specific societies with the specific demands. According to Huther and Shah there are two conditions that encourage officials to seek out corruption.³⁴ Firstly, the expected gains exceed the expected cost of undertaking a corrupt act. Secondly, little weight is placed on

³³ Robert D Cooter, "The Rule of State Law and the Rule of Law State: Economic Analysis of the Legal Foundations of Development", in Michael Bruno and Boris Pleskovic (eds.), *Annual World Bank Conference on Development Economics* Washington DC: World Bank, 1996).

³⁴ Jeff Huther and Anwar Shah, "Anti-corruption Policies and Programs: A Framework for Evaluation". Policy Research Working Paper, The World Bank Operations Evaluation Department, Country Evaluation and Regional Division, December 2000.

the cost that corruption imposes on others. Thus, the first factor means that when they expect to derive net positive benefit only then will they indulge in corruption. Successful anti-corruption drives serve to lower the expected gains and raises the expected penalties thus changing the cost benefit calculation of corrupt public officials. The cost benefit calculations (refer to Table 1) are changed by anti corruption programs through four mechanisms -

Reducing expected gross benefit by reducing the transaction value by scaling down the individual products, demonopolising public service, promoting competition in the private sector, increasing the share of financing from domestic taxes or user charges and bringing a culture of new contractualism to the public sector.

Reducing the number of transactions that create opportunities for graft and private capture of public programs can include streamlining bureaucracy, economic or financial liberalization, improving service standards and decentralizing government services. However privatization process in itself involves transaction that may strengthen the vested and corrupt interest and might defeat the very purpose of its implementation.

Increasing the probability of paying penalties through detection, prosecution and exacting penalty. Detection can be increased by increased citizen participation in the electoral process, establishing citizen's charters, freedom of press, more transparent interaction between the public and private and public sector and last but not the least a strong rule of law so that the illicit actions can be avoided.

Increasing the magnitude of penalties, which greatly depend upon the response of the people to the penalties. However, open and transparent judicial proceedings are also crucial to deterrence. At times even penalization of private sector efforts to participate in corruption also helps. But government which can not influence

the incentives of its own officials is unlikely to be able to reduce private sector incentives to engage in corruption.

However, the basic question is how it establishes priorities of anti-corruption programs and which actions should be used to meet these targets.

Table-1

The Influence of Anti-Corruption Programs on Officials Cost-Benefit Analysis

Number Of Corrupt Transactions	Gross Gains From Corruption	Probability Of Paying Penalty	Magnitude Of Penalty	Actions Not Influencing Cost Benefit Analysis
Bureaucratic Culture – Streamlining Services	Economic Reform – Improving Competitive Environment	Anti-Corruption Agencies	Rationalization of laws	Raising Awareness of Public Through Seminars
Creating or raising Public Service Standards	Scaling Down Individual Public Projects	Parliamentary Oversight	-----	Public Opinion Surveys
Reducing Public Employment	Bureaucratic Culture	Ombudsman	-----	Raising Public Sector Wages
Reducing Public Sector Size	Referenda on Large Public Projects	Financial Accountability	-----	Reducing Wage Compression
Financial Liberalization	-----	Media Independence	-----	-----
Increasing Transparency	-----	Judicial Independence	-----	-----
Decentralization of Public Services	-----	Citizen Participation	-----	-----

Economic Reform – Privatization	-----	Rule Of Law	-----	-----
-----	-----	Ethics Office	-----	-----

According to the economic theory the high priority programs should be those which deal with large welfare losses, caused due to corruption. However, such losses are difficult to compute because quantifying corruption losses is difficult and large losses are often the result of multiple governance failures. As a result, prioritization relies on country's specific political, economic and bureaucratic conditions. Even determining actions to be taken depend on the weaknesses of a specific government. Widespread corruption is likely to be the result of multiple governance failure, so successful anti-corruption campaigns have to be multi-pronged (refer to Table 2)

Table-2

Empirical Evidence on Selected Anti-corruption Programs

Program	Empirical Evidence
Anti-Corruption Agencies	Anti-corruption agencies have been successful in Chile, Hong Kong, New South Wales, Australia and Singapore (Allan; 1992. Clark; 1987. Holm; 2000; Doig; 1995; Klitgaard; 1998; Segal; 1999 and World Bank, 1999). Developing country officials however do not see these as effective anti-corruption tools in countries with endemic corruption (see Kaufmann, 1997).
Public Opinion Surveys	Public opinion surveys have served as a useful tool in articulating more precisely citizens' concerns (e.g. Bangalore scorecard and a "corruptometer" by an Argentine NGO). International surveys, such as those compiled by Transparency International, highlight countries in which corruption is perceived to be endemic
Raising Public Sector Wages	Rijkeghem and Weder (1997) find no short run impact (as the income from bribery dominates total income). Gurgur and Shah (1999, 2000) find negative yet insignificant effect. Treisman (1999) and Swamy et al. (1999) find no relationship. The SDC experience in the forestry sector in Pakistan also confirms this. In corrupt societies public

	positions are often purchased by borrowing money from family and friends. Raising public sector wages simply raises the purchase price and subsequent corruption efforts to repay loans. Of course raising public sector wages which do not allow the employee to satisfy basic needs of his/her family, are likely to reduce petty corruption.
Reducing Public Sector Size	Tanzi and Davoodi (1998), LaPalombara (1994), La Porta et al (1999) find that reduction in public sector size leads to less corruption. Gurgur and Shah (1999) find that this result only holds when important variables such as judiciary, democratic institutions, colonial heritage, decentralization, and bureaucratic culture are omitted. Elliot (1997) finds an inverse relationship between the budget size and corruption. Privatization in some countries (e.g. Russia) has led to increased corruption and exploitation. Thus appropriate role of the government is the critical element for discussion on corruption.
Financial Accountability	Gurgur and Shah (1999, 2000) find a negative yet insignificant association
Media Independence	Freedom of press is negatively correlated with the level of corruption (see Brunetti and Weder, 1998)
Judicial Independence	Judicial independence reduces corruption as confirmed by Ades and Di Tella (1996), Goel and Nelson (1998) and Gurgur and Shah (1999, 2000).
Citizen Participation	Citizen participation leads to reduced corruption as confirmed by Kaufman and Sachs (1998) and Gurgur and Shah (1999, 2000).
Decentralization	Huther and Shah (1998), Gurgur and Shah (2000) and Fisman and Gatti (2000) find a negative relationship between decentralization and corruption.
Bureaucratic Culture	Gurgur and Shah (1999, 2000) find a positive relationship between command and control type civil service orientation and corruption

The prioritization of anti corruption campaigns could also be based on the evaluation results. The operations evaluation department of the World Bank uses four-key criteria: -

Relevance- Operations Evaluation Department (OED) defines relevance as "the extent to which the project's objectives are consistent with country's current development priorities...." So, anti-corruption programs are judged to be relevant if they have the potential to achieve their objectives in a country's existing institutional and policy environment.

Schacter and Shah argue that relevance includes two factors –technical relevance and welfare relevance.³⁵ Technical relevance is the impact of specific activities on the incidence of corruption and welfare relevance is the relative importance for the growth and poverty reduction. For example, explicit anti-corruption efforts such as setting up anti-corruption agency, ethics office and requiring no bribery pledge etc. are likely to be less effective in counties lacking functioning legal system without accountability of government or inadequate financial transparency. Table 3 helps in visualizing the relevance of a particular anti-corruption program in a particular scenario.

Table 3

Ratings on Relevance of a Menu of Anti-corruption Programs

Program	Country's Quality of Governance			Comments
	Weak	Fair	Good	
Raising public Awareness of Corruption through	Not Relevant	Low	Medium	In countries with weak governance, corrupt practices and agents are generally well known.
Raising awareness of Public officials through seminars	Not Relevant	Low	Medium	Public officials may be aware of corruption but unwilling and/or unable to take action due to incentive problems

³⁵ Mark S7chacter and Anwar Shah, "Anti-corruption Programs: Look before you leap", prepared for the International Conference on Corruption, Seoul, South Korea, December 2000.

				in countries with weak governance.
Anti-corruption Agencies / Ombudsman	Not Relevant	Low	Medium	With endemic corruption, anti-corruption agencies or ombudsman may actually extort rents. Positive influence if preconditions for good governance exist.
Ethics office	Not relevant	Low	Medium	Positive influence may be limited to societies with good governance
Raising Public Sector Wages	Negligible	Low	Medium	May have positive impact on petty Corruption but little impact on grand Corruption. Negative impact if part of problem is excessive public employment.
Reducing Wage Compression	Negligible	Negligible	Negligible	More relevant as an incentive mechanism for career development. May increase corruption if the public sector viewed as lucrative career option by greedy elements of society.
Merit based civil Service	Low	Medium	High	May be derailed by bureaucratic processes

				in highly corrupt societies.
Public Opinion Surveys	Low	Medium	Medium	Public opinion surveys have served as a useful tool in articulating citizens' Concerns (e.g. Bangalore scorecard).
Financial Accountability	Low	Low	Medium	Appropriate when democratic Accountability and a substantial Accounting/bookkeeping infrastructure With some integrity are in place.
Parliamentary Oversight	Low	Medium	Medium	Parliamentary oversight can be helpful but Parliamentary micro-management not an effective form of governance.
Reducing Public Employment	Medium	Low	Low	May reduce opportunities for corruption .
Decentralization	Medium	Low	Low	May improve accountability and may increase sense of social purpose for public Officials.
Client-based civil Service / Bureaucratic culture	Medium	Medium	Low	Success depends upon service delivery orientation of public service, reinforced by accountability for results.

Economic policy Reform	High	Medium	Low	Reduces potential corruption by shifting decision-making to the private sector.
Media and judicial Independence, citizen Participation	High	Medium	Low	Allows for detection, followed by accountability
Reducing Public Sector Size	High	Medium	Low	By reducing the number of government activities, officials can focus on primary objectives of the state.
Rule of law	High	Medium	Low	Essential for any progress.

The second factor is, efficacy, which is defined by the OED as to "the extent to which the project's objectives were achieved or expected to be achieved, taking into account their relative importance." This requires measurement of the effect of a given set of anti-corruption activities on levels of corruption or corrupt activities, specially the measurement of changes in the levels of corruption. It is also important to find out the degree to which the changes can be attributed to anti-corruption programs. Both of them are prone to large measurement errors.

The third is efficiency, defined by OED as "the extent to which the project achieved or is expected to achieve, a return higher than the opportunity cost of capital and benefits at least compared to alternatives and anti-corruption program is considered

efficient if it generates maximum reduction incidence of corruption by good targeting as well as

associated welfare gains at the least cost. Even in this case, the absence of direct measures of the levels of corruption have to be based on changes in policy measures. Therefore, the evaluation will focus on the relationship between cost of anti-corruption intervention and changes in the incentives.

Last but not the least, is sustainability defined by OED as "the resilience to risk of net benefit flows overtime." Assessment of sustainability would take into account political, economic, financial, social and external factors. In terms of anti- corruption activities, sustainable actions are those that change the expectation of accountability of public officials. Risk reeducation in anti-corruption efforts are likely to be aided by diversification (refer to Table 4).

Table 4

Summary of Proposed Rating Factors for Anti-Corruption Programs

Relevance	<ul style="list-style-type: none"> * Program objectives consistent with country's development priorities, with Bank strategy * Program design underpinned by analytical work that recognizes country specific public sector mission and values, opportunities and constraints and an informed view of potential impacts of alternative actions * Judgments as to (a) the degree to which the anti-corruption programs were targeted to corruption drivers: (b) the relationship between those drivers, corruption and welfare outcomes.
Efficacy	<ul style="list-style-type: none"> * The extent to which the project's objectives were achieved, or expected to be achieved, taking into account their relative importance in curtailing corruption. * Judgments to be made about the degree to which Bank supported interventions have (i) reduced , (ii) had no impact, or (iii) led to an increase in, levels of various forms of corruption in the country. As a proxy focus on the relationship between Bank supported interventions and changes in key corruption drivers.
Efficiency	<ul style="list-style-type: none"> * generates most reductions in corruption and associated welfare gains for the least cost * targets corruption that has large costs
Sustainability	<ul style="list-style-type: none"> *the resilience to risk of net benefit flows over time based upon an

	assessment of political, economic, financial , social and external influences
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The framework highlights the difficulty faced by an anti-corruption campaign as successful campaigns reduce the welfare of some public officials. So anti-corruption policies have to be opportunistically preserved. Anti-corruption campaigns cannot be applied uniformly in either time framework or policy. Another factor not to be missed is the path dependency, which is critical in determining the relative efficacy. For instance the institutions like ombudsman, which are effective in low corruption scenario, could help only in enhancing corruption in endemic corruption scenario. Successful anti-corruption programs are those, which address the underlying governance failures, result in lower opportunities for gains and a greater likelihood of sanctions. So programs have to be relative to a country's existing quality of governance. (refer to Table5). The evaluation framework thus is very useful both in determining the actions to be taken to check corruption as well as their effectiveness in doing so.

Table 5
Effective Anti-Corruption Programs Based on Governance Quality

Incidence of Corruption	Governance Quality	Priorities of Anti-Corruption Efforts (Based on Drivers of corruption)
High	Poor	Establish rule of law, strengthen institutions of participation and accountability; limit government interventions to focus on core Mandate
Medium	Fair	Decentralization and economic policy reforms; results-oriented management and evaluation; introduction of incentives for competitive public service delivery
Low	Good	Explicit anti-corruption programs such as anti-corruption Agencies; strengthen financial management; raising public and officials awareness; no bribery pledges, fry big fish, etc.

CHAPTER 2

THE INDIAN SCENARIO

Corruption afflicts India at all levels of state and society. It has become entrenched in India, being pervasive, organized and monopolistic. Although, it is rampant at all levels and in all agencies, administrative corruption seems to be the form in which corruption hits the daily life of common man. In a democracy, political corruption can be stopped or at least checked, as politicians are directly accountable to the people who have voted them to power. Similarly, Judiciary does not have such a big impact on the day-to-day life on a regular basis and any decision taken in disregard to the rule of law stands out starkly in the eyes of the civil society. But administration, which touches almost every aspect of citizens life and is not directly accountable to people, has authority and powers greatly incommensurate with responsibilities and duties. Moreover, it is very difficult to detect corruption in administration, which acts like a slow poison which slowly but steady makes the entire system poisonous.

Concept of Corruption in Ancient India

Many of us would think that corruption in India is probably as old administration itself, because the first treatise on administration-“The Arthashastra” - by Kautilya deals with the issue of corruption in such detail. But the fact remains that although the concept of corruption as use of public office for private purposes and the distinction between 'public' and 'private' or 'official and 'personal' had been propounded in theory but had not taken roots in practice. A rudimentary administrative system in India started with the king as the focus and a court of elders to assist him. Along with the court of elders, the king had a stream of officials to help him carry out day-to-day administration. All the office holders served as the servants to the rulers and held office on the king's discretion. This was a patrimonial state, which governed on the basis of personal, traditional authority where the ruler was a patriarch. The obedience under this system was owed to the ruler who occupied the traditionally sanctioned position of authority and was bound by

tradition. The obligation of obedience was a matter of personal loyalty within the area of accustomed obligations. The administration in such system was personalized. The selection of the officials was on the basis of loyalty, they were paid in kind, in form of assigned benefices that consisted of appropriation of takes etc. that were otherwise due to the state. So there was no distinction between public and private because of the patriarchal nature of administration. As S. K. Das points out the conception of office in patrimonial system was purely economic.¹ Rulers assigned to officials payments for life, which were fixed to objects, which were essentially economic usufruct from land or other sources. These benefices acted as permanent economic assurances of office. The office acted as sources of rent, blurring the boundaries between public and private purposes of offices. The official duties and compensation were interrelated in such a way that the official did not transfer to the ruler any yield gained from the objects left to him, in turn, he rendered to the ruler services of a personal, ecclesiastical or military nature. The fiscal and sovereignty prerogatives of the state were temporarily exchanged for the services of a specified nature to the ruler. Because of such a personal and loyalty based system of administration, there was no well-defined hierarchy of offices and the bureaucratic positions remained loosely defined.

This stage of development of administration soon gave way to a more developed form of administrative system: patrimonial bureaucratic empire, which took shape in India. Patrimonial bureaucratic empires were created when kings of the patriarchal kingdoms expanded the boundaries of their kingdoms. This changed the nature of authority from personal to purely political. However, the style of administration remained the same, with the ruler exercising power in the same personal way. But due to the larger size of the empire, the strategy to exercise this power was changed. The new strategy that was evolved included both the patrimonial and extra-patrimonial officers and assigning large tracts of lands or villages to the officials compensated their services. But as the area was large, these were far from the seat of power and since loyalty was no longer a criteria of selection, the problem of assertion of independence by these officials arose. As a

¹ S. K. Das, *Public office, private interest bureaucracy and corruption in India* (New Delhi: Oxford University Press, 2001), p. 13.

reaction to this, the rulers, as a means of re-assertion of authority started traveling extensively, compelling regular court attendance of the officials. Another reaction was the emergence of a strong intelligence network to keep the ruler abreast of the activities of the officials and a system of checks and balances by keeping overlapping duties of officials. All this was done to assure the temporariness of the land grants to the officials. Another important reason for the development of this strategy was that the money economy had not yet developed to the extent that the patriarch could pay his officials in cash. The salary demand of the state could not be met except through the barter system, which still remained the major trade medium. So it was not possible for the ruler to compensate the services of his officials in monetary form. Even though patrimonial bureaucratic system witnessed a shift from the completely personal system based on loyalty, it was still very far from the Weberian concept of Legal Rational bureaucracy based on merit, which distinguished between 'Public' and 'Private' or 'Personal' and 'Official'. So the modern day concept of corruption, that is, use of public office for private gains was still foreign to the system.

The emergence of Mauryan Empire marks a transition from patrimonial bureaucracy to a more developed system based on merit. But this transition was still in its infancy and the features of both systems were seen in the Mauryan Empire. The emperor remained a benevolent patriarch. The civil servant held the office on the pleasure of the ruler. An element of testing the merit in selecting the civil servants was seen as Arthashastra mentions the tests that were conducted to assess the merit of the candidates. But they were essentially to test the loyalty and integrity of the candidate, which qualified as merit. Continued loyalty and integrity remained the means of progression in services. Mauryan civil services were a complex, hierarchical system so the means of progression were important and had to be clearly defined. The instruments of control were those of patrimonial bureaucratic empires like rotation of officers, tours by the emperors, strong intelligence system etc. One aspect where the Mauryan Empire transcended the boundaries of patrimonial bureaucracies was that the salaries were paid in cash. This separation meant that the officials were obliged to account for the management of property belonging to the state. This shows that the modern day concept of corruption,

i.e., using public office for personal benefits was understood by the Mauryans. Maintenance of accounts was important and the Ministers presented the accounts to the emperor. This was done to ensure that the officials did not misappropriate the state revenues. There was clear distinction between the state and the private interests. According to Arthashastra, the embezzlement of government funds was the most reprehensible act a civil servant could ever commit. However, this was a frequent exercise as the Arthashastra itself talks of more than forty ways of embezzlement of government funds, which were committed by the civil servants. Apart from this, Arthashastra also provides a comprehensive inventory of penalties to prevent and punish misappropriation of revenues by the civil servants. Although, the concept of corruption was propounded, it could not develop any further because of the political and administrative turmoil and degeneration that followed with the decay of Mauryan Empire. Indian administrative system remained in flux for quite some time till the Delhi Sultanate era.²

With the Delhi Sultanate came a new system of administration known as 'the Iqta system'. Which was radically different from the Mauryan Empire. It reverted back to a stage where there was no difference in state interests and personal interests. In this system the rulers granted revenue from the land to their civil servants who, in turn had two obligations. They were required to pay a part of the revenue from the land the rulers and were supposed to maintain a specified number of troops for the ruler. With the increase in the frequency of wars, only the second obligation of providing troops was emphasized. Initially, only the revenue from land was granted to the civil servants, for the life of the grantee, which could be terminated in case of defaults. But as the central authority became weak, grants were regarded to be in perpetuity and the termination clause became obsolete. The revenue grant became a land grant because it was very difficult to enforce the conditions of the original grant. In other words, the style of administration under the Iqta system had reverted back to the patrimonial bureaucracy type with no distinction between public and private, official and personal. The officials

² *Ibid.*, p. 43

could use their office in furtherance of their own interests as long as they provided personal and military services to the ruler.

The next stage of administrative development was under the Mughals. The 'Manasabdari system', as it was called was very similar to the 'Iqta system', consisting of assignment of land on temporary basis. Maintenance of troops and a part of revenue were provided to the king. The only difference was that the imperial center, being strong was able to sustain the temporariness of land assignments and exercised total control over the civil servants. The control was exercised through tours, making civil servants attend the imperial court regularly, introduction of a system of checks and balances, frequent transfers and strictly enforced clause of temporariness. Although, the Mughals were successful in controlling their civil servants, it had very serious economic and social repercussions. The prodigal nature of the Mughal bureaucracy made it almost a compulsion for the Mughal civil servants to use their public office to make as much money as possible. It led to an unlimited exploitation of the people. But the imperial authority did nothing to check it rather encouraged it, as the civil servants were required to give expensive presents to the emperor. Even the progression in career depended quite a lot on the quality and value of the gifts one presented to the Mughal rulers.³

The rule of East India Company that followed the Mughal rule was that of sheer plunder by its civil servants. Although it was not a patrimonial system, some basic features of patrimonialism were a part of it. There was a distinct patronage character of bureaucracy. The civil servants were selected as nominees of their patrons i.e., the directors of the Company, so they were more loyal to their patrons rather than the company and the government. Their patrons provided them protection and even progression in career. Under this system, those occupying public office failed to distinguish between public and private and although they were paid salaries, the power and authority of office were also used as a form of currency for private gains. However, the East India Company era marked a transition phase and the 'rationalization' of

³ *Ibid.*, p. 53.

bureaucracy started in this era. 'Rationalization' means the introduction of the Weberian concept of Legal-Rationality in bureaucracy, which distinctly demarcates the difference between public and private, making the use of public authority for private gains as something illegal and undesirable.

The first effort at the Rationalization of bureaucracy started with the Regulating Act of 1773, which for the first time in the history of Indian administration, made the acceptance of presents and indulgence in corrupt bargains punishable acts. Prescribing specific rules and procedures to punish the corrupt officials followed it and the power to punish was vested in the head of the executive government in India. This helped the executive to curb the menace of assorting wealth through illegal means. Distinction in civil and commercial functions was made and separate personnel for these jobs were appointed. The administrative reforms that followed brought about a change in the way the public offices were viewed. The public functions were discharged by civil servants who were appointed and paid by the government and not by the commercial residents of East India Company. The power and prestige which were associated with affluence and conspicuous consumption were now associated with personal integrity. The collectors earned much less than the commercial residents of East India Company but the former because of his integrity enjoyed a far greater status in the society. There was a fundamental shift in the sense that integrity rather than affluence was emphasized.⁴

The rationalization of bureaucracy reached a climax under Cornwallis. Cornwallis realized the importance of decent and regular salaries. The salary structure was improved and an incentive clause was introduced that the civil servants would get a commission depending on the quantum of revenues collected. This was also done to help contain the desire among public servants to use public revenues to meet their luxury expenses. Another important development was the emergence of the concept of rule of law as the basis of all executive action. The area of discretion was reduced by demarcation of procedural limits to the exercise of power at different levels. This introduced for the first time the Weberian concept of 'legality' and 'rationality' in the Indian administration. For

⁴ *Ibid.*, p. 69.

the first time, the supremacy of law was binding both law abiders and law enforcers. Another important aspect was that by this an attempt was made to introduce a system in which relationships were based on law rather than personal loyalty.⁵

The Indian Administrative system, however, still suffered from patronage as a means of selection of candidates, which was also soon done away with. A system of examination was introduced that was conducted for selecting the candidates for civil services. This step mitigated the last vestige of patrimonialism from the system. Now a feeling of *esprit de corps* was created and the civil servants developed a feeling of loyalty and affiliation towards the service and its ethics rather than their patrons, as was the case earlier. It was only now, with the total rationalization of bureaucracy in India in 1850s that the concept of corruption, the way we look at it today, was defined and steps were taken to curb it. After tracing the growth of the concept of corruption in India, we move on to trace its entrenchment in Independent India.

Corruption Scenario in India after 1947

The steps to rationalize bureaucracy in India under the British era were on the initiative of the higher authorities. The civil opinion or reaction to corruption was not considered important enough by the foreign regime, nor was the civil society strong enough to curb it. This led to a situation where a phenomenon like corruption was endeavored to be controlled by enforcing rules and procedures rather than by indigenous efforts by the civil society to check the menace. Because of this, corruption could never be checked; rather it found ways and means to get entrenched. The situation changed when India gained independence. Leaders with impeccable reputation, integrity and honesty came at the helm of affairs. The state now transformed into a sovereign, democratic and welfare state, which increased the task of administration manifold. The administrative staff from the British era was however retained to avoid an administrative vacuum that would have resulted by doing otherwise. The staff, in turn, retained their work culture, which was more suited to a colony than a sovereign democracy. The

⁵ *Ibid.*, p. 70.

functions that the administration now undertook were much wider and complex and the work experience of the staff was unable to guide them, which led to deterioration in the quality of output. This caused great dissatisfaction among the people who had been brought up to think that all the ills of this country were due to the British and that conditions would automatically improve by getting rid of them. The fact that the conditions were deteriorating even after independence was causing great discontentment. This feeling intensified the belief in the lack of integrity of many of those in high positions, which led to the appointment of several commissions to look into the matter. This process started in the early years of independence and the reports of some of these commissions give a deep insight into the conditions prevailing in India at that time. The situation in India was just ripe for the spread of corruption. There was poverty, limited resources and a heavy competition for them, a new emerging country with myriads of developmental problems.

One of the earliest commissions, which discussed the issue of mal-administration and corruption, was A.D.Gorwala commission in 1951, seems more of an exercise in ethics. While analyzing the problem Gorwala pointed out that it stems from intellectual or spiritual poverty and is essentially an ethical one and so some of the suggestions made, partake the nature of abstract maxims of morality rather than concrete recommendations of reform. It must be remembered that morality in the wider sense is inherent in the nature of the problem.⁶ Morality and ethics are very important for a healthy democracy. Gorwala report also presents reasons for a sudden decay in the moral fabric of the country in just four years after independence it cites two reasons- firstly, the second world war where the effort was shared in a war which was not our own. It was boom time and many people benefited legally and illegally from it. But as it was not our own war, the spirit of self-sacrifice and high endeavor were absent. The moral caliber further deteriorated due to the anomie created by it. The second reason cited by it is that even the political movement for independence was responsible because “the standard of conduct imposed by the leader of the political movement was so high that the bulk of his followers could not lift themselves up to it” and as a result accepted the doctrine only

⁶ A D Gorwala, *Report on Public Administration* (Delhi: Planning Commission, 1951).

superficially. Gorwala report maintains, “moved by personality they became fired with emotion and followed his lead. Emotions, however, are transitory and leave its subject morally, exactly where he was before. It does not impose on him the deep discipline, which permeating the mind, burns away the dross.”⁷

Gorwala, however, felt that no doubt there was a general lack of integrity and character, but it was not as bad as it was made out to be. Rather the feeling of discontent among the general public, due to inefficiency had embittered public to believe in the lack of integrity of those in high positions. He quotes a Sanskrit proverb, “as the king, so the people”, to explain that every official action of the ministers, legislators and administrators of the higher ranks must be based on principles and they must realize that to the extent they depart from the principles, they effect detrimentally their own moral development as well as undermine the stability of the state. The report maintains, it is also essential that the standards are seen to be observed because if it is not so obviously perceptible it might lead to comments. Such comments create an environment, a psychological atmosphere about administration and people begin to adapt illegal methods of those who are at high positions.⁸

By reading the report we get an impression that although lack of integrity and corruption are no doubt exaggerated, but they do exist and are on an increase. The report classifies the deviation from moral standards under three main heads, i.e., corruption, patronage (based on communalism, sectarianism, nepotism and favoritism) and influence. The report also questions whether is really damaging and answer in an affirmative is also provided by it. It says that in welfare, democratic state, the moral demands on the state are more stringent and the resources very limited. So corruption is detrimental as heavy costs] in terms of development losses are incurred due to it.

The level of corruption can be assessed when the report talks of “various instances in which grave allegations of specific nature” were made against persons

⁷ *Ibid.*, p. 6.

⁸ *Ibid.*

occupying the position of ministers of government. These cases either ended up as subject of debates in legislatures, which were either inconclusive or ended in a favorable vote. Otherwise, an inquiry into allegations was made, whose reports often remained secret. This suggests that both the tendency to be corrupt and to shield corruption were gradually taking roots. The report pointed out certain special departments, which came into continuous contact with the public regarding which, there were many complaints of corruption among subordinate staff. The report especially mentions income tax, customs, industry and supply and commerce ministry in this context. Another interesting analysis that featured in the report is the internal inconsistency between the Indian public standards and the private virtue when it comes to patronage. Our country has long recognized a man's duty to provide for his relatives as well as his fraternity (biradari). So the concept of not using patronage to further the interests of the community actually violates against this private virtue. But in such cases, the report categorically states that public virtue should prevail. This also shows that the evils of patronage still existed in spite of a legal-rational system with meritocracy that was proclaimed to exist. India at that time showed distinct features of Riggsian 'Prismatic' society, which on papers was moving towards diffracted but spiritually retained all its traditionalism and aspects of a fused society.

A few years later, another report dealing with the issue of corruption came out in 1955, which was chaired by J.B.Kriplani. It dealt with corruption in railways. Kriplani looked at railways as our largest undertaking and the biggest utility concern with an annual budget which aggregated to about three-fifth of the general revenues of the union of India, employing lakhs of people and carrying cores of passengers and treated it like a miniature state.⁹ In this context, the report discussed corruption. For the commission, corruption was a failure of citizenship, as any act of corruption starting with bribe to ticket less travel to theft, undermines the state. By reading the report we get a feeling that corruption had come a long way since 1951. It seemed to have taken roots, as the report, in its list of categories of people who indulge in corrupt activities included- ministers, administrators, professors, students, sadhus etc. Kriplani frankly admits that incidence of

⁹ J B Kriplani, *Report of the Railway Corruption Inquiry Committee* (Delhi: Government of India 1955).

corruption was high and there was no exaggerated lament of lack of integrity among officials in the general public opinion, as was perceived by the Gorwala report. Presenting a sad picture of corruption, the commission notes that it is the middle class and the elite that treats the state as a free ride and it is the third class passenger, the poor and the illiterate who are constantly harassed and exploited.

In the report, there is a clear indication that the 'revisionist argument' of 'grease the wheels' theory had gained currency. The report states that the wheels of government move slowly. The common complaint is that nothing moves on railways without special effort, whether it is a wagon that has to move to avoid perishables deteriorating or a parcel clerk who has to steer himself to give delivery of a parcel; whether it is a file that has to move for the settlement of a claim or.... a station master who has to grant open delivery. Only the bribe or 'mamul' oils the wheels of the railway state. The social acceptance of corruption is also distinctly visible when the commission laments that the system of paying mamul is so universal that the givers or takers do not think it morally wrong. with slow entrenchment of corruption had become pervasive and organized as the report says that normally the amount collected at the grassroots level is pooled and distributed amongst the staff in accordance with respective importance. Many justifications were given in support of corruption, like; it was a means of distributive justice. Corruption was perceived as almost a right. Riggsian prismaticism was again visible here as there was a subversion of 'Weberian officialdom' into a 'vizardom' where each station master or official becomes a lord within his domain, with the seniors usually getting their monthly quota from the various officers working under them .The entrenchment gave a feeling of collectivity or *esprit de corps*. The report says that the unity evinced by such "pooled staff" is remarkable. If any of them is in trouble, the rest run to rescue. The report cited an example where some of the goods staff of an important industrial town were being prosecuted for corruption, common fund was raised and an advocate was hired for the defense on a fat fee of rupees 500 a day. Corruption had become so pervasive and entrenched that there was no article or commodity which could be declared safe. The theft of all sorts of things were cited by the commission starting from cloth, piece goods, cigarettes, medicinal goods, motor tyres, steel products,

vegetables to even railway property like metal scraps, brass bearings, carriage fittings, cables, dynamo belts, batteries, fans, electric bulbs etc.¹⁰

Both Kriplani and Gorwala reports were similar in their terms of their suggestions for control of corruption. Kriplani report also recommends efficiency and honesty coupled with technical expertise to control corruption. Technical solutions alone for such problems were considered technically and politically inadequate. The report also laments the weakening of the national character, which is ready to rationalize and justify and to get reconciled to the continuance of evil, rather than to fight it. But this National character' can be molded, given proper conditions, the most important being leadership. The report cites the example of Mahatma Gandhi. For the Kriplani committee, the leader of the organization was like a leader of a movement and apart from administrative reforms and punitive measures, there is no great need for higher officials to play the role of leaders in a reform movement. The committee's theory of corruption was a triangular one. It saw corruption as a lack of caring and linked it to exploitation. It believed that something that springs from indifference could be eventually exploitative. Connecting the lack of caring to exploitation, the committee states, that if labor is not considerate of railway interests, the railways themselves do not give much consideration to the conditions under which labor is required to work. The committee feels that the railways must embody a different notion of equality and justice, a socialism with an ethical quality, an ethical system which was simultaneously good economies and good politics and to succeed it depends on political leadership. Leadership sets an example, sustain paradigms, so it insists that investigation into every rumor of corruption should be taken. Kriplani feels that when a strong aroma of corruption gathers around any officer, very rarely will it be wrong to specifically and thoroughly to investigate his actions, his financial position and the financial position of his relatives and close friends who seem to have acquired a somewhat large share of the goods of the world. Both Kriplani and Gorwala were in favor of investigation into all allegations and rumors of corruption

¹⁰ Kriplani, *Ibid*.

which both thought could be checked by setting an example of high integrity which sustains paradigms or creates a positive psychological atmosphere.

Though the level of corruption had increased since 1951 and had acquired pervasive and organized nature, which was earlier absent, still by 1955 the situation had not gone out of hand. Corruption still could have been checked, if the political leadership took the suggestions made by these reports seriously. But the leadership, which was preoccupied with the notion of development, which according to it was institutionalization and nation building, saw corruption as an inevitable outcome or rather a small problem associated with development. Though at the highest level, there was no dearth of integrity, corruption at the lower levels was not strictly checked, and at times blatantly overlooked. This led to a successful upward movement of corruption. The entrenchment of corruption reached new heights that could be seen in S.R. Das commission, which was the first official inquiry into corruption charges against a Chief Minister, in 1963.

The S.R. Das commission was a commission of inquiry against Pratap Singh Kairon, the Chief Minister of Punjab from 1956-1957. The entrenchment can be seen by the fact that while the first generation reports (of 1950s) were preoccupied with the corruption in administration involving bureaucracy, the second-generation reports (1960s) were replete with political corruption, specially the corruption of the leadership. Pratap Singh Kairon was an embodiment of the Nehru era, was Congress party strongman and was very close to Nehru. The allegations against him were nepotism, patronage and contravention of law in the process. All these were exactly those against which Gorwala had cautioned in his report. The 'public virtue' was ignored and the 'Private virtue' of helping the relatives & 'biradari' prevailed. In the process there was deinstitutionalization, as corruption deinstitutionalizes by emphasizing nepotism, arbitrary patronage over rational bureaucratic system. The circumstances, which led to the appointment of the Das commission, also make an interesting depiction of corruption.

The gossip-rumors about the nepotism started making rounds in the bureaucracy, which was highly dissatisfied with the continual interference of Kairon even in the day-to-day administration. As E.N.Mangat Rai, his principal secretary between 1957-62, records, 'over the years Kairon created an atmosphere where the civil services as a whole became a whispering gallery talking against him. I even pointed out to him that if one lakh civilian employees, who were about the number at the time, had even 10 listeners each including family and friends; he thus had an audience and a propaganda unit of one million persons against him. What is more, this was a knowledge sit of people, who dealt with files and cases so that they had all the material of detail to offer ostensible corroboratory evidence in support of their views and prejudices.'¹¹

These gossips built a public pressure against Kairon and attempts were made by small groups of politicians to keep the controversy alive on July 13, 1963, a delegation of leaders from all the non-communist parties called upon the president and submitted to him memoranda of allegations. The deputation emphasizes that it was highly aggrieved by the 'partisan handling of the case by Jawaharlal Nehru.' Even this memorandum would have gone unnoticed but there was a court ruling against Kairon for the systematic harassment of a public official. This gave momentum to the protests. All this forced Nehru to appoint the S.R.Das commission to inquire into the charges against Kairon. This suggests that corruption was gaining ground as the parties now involved were political high-ups and even the Prime Minister was accused of being partisan.

The S.R.Das report reflects the structured ambivalence to corruption, in the Nehruvian years. The report began by hailing Kairon as the builder of an era. A marked difference was seen in the earlier reports and the Das report. The former were resonating the need for a high moral standard, demanding high moral conduct from the ministers while the latter was glorifying a hero who had fallen to corruption. The Das commission while analyzing the allegations clubbed a few of the affidavits as 'inartistic documents' merely a part of the cacophony of the factionalism. However, it feared that such gossip

¹¹ Shiv Visvanathan and Harsh Sethi (eds.) *Chronicles of Corruption : Foul Play* (New Delhi: Banyan Books 1998), p. 34.

might threaten governance and said, 'This controversy has excited public passion, fomented foul recriminations, distrust and hatred between erstwhile comrades, aroused curiosity between rivals individuals or groups and has even divided a section of press into two distinct warring camps. In short public opinion in the state is surcharged with rumor and ill-will."¹² However, the commission admitted that 'he was also a tyrant who brought the state of Punjab to the verge of ruins by his 'systematic misadministration, abuse of his official position and power to drive pecuniary gains for himself and members of his family and relatives, compendiously called the 'kairon tribe.' It maintains that the only concern of S.Pratap Singh kairon was by hook or crook, to cling to power and authority to satisfy his inordinate lust for power and accumulation of ill-gotten wealth and that with this end in view he collected around him a band a unscrupulous followers by the lure of sordid gains and encouraged a set of sycophant civil servants who out of fear of his wrath or hopes for future rewards were at all times at his back and call.¹³

The commission felt that here corruption was struggle between competing demands of family and state. In the charges, there were three affidavits, which stated that he had assets disproportionate to his known sources of income. The burden of proof remained on the memorialists, who had to prove, 'that the acquisition of these properties by sons or relatives was the result of the misuse of influence and power by Kairon on his family. One of the charges was that Kairon used his influence in the sale of a cinema hall site to a buyer by inviting tender so that antecedents of the buyer could be ascertained and sold it to a Gurdip Singh Gill who later transferred his share to Surinder Singh Kairon, the son of the Chief Minister, in spite of the fact that the site was non-transferable.

The charge was proved and the commission noted that, 'The officers were evidently oppressed with the thought that an illegal and sordid action was being taken for the benefit of the Chief Minister's son and begged that the matter be placed before the Chief Minister so that seeing the enormity of the mischievous violation of law and practice of the department he may, for the sake of his own reputation and safety, cry halt

¹² Visvanathan and Sethi, *ibid.*, p. 37.

¹³ *Ibid.*, p. 38.

to the illegal, unmoral and rank favoritism that was being perpetrated by the government in the interest of Surinder Singh Kairon. Could there be a broader hint about the evil doing that was going to be perpetuated than what was implicit in the above noting? Certainly not. But the redoubtable Deputy Minister, in his extraordinary note under date 13 January 1961 brushed aside all the objections taken by the senior officials on the specious plea that the sale of the site was not being transferred and that there was no change involved in the ownership.¹⁴

The commission also noted that it was not an innocent mistake of law but 'a calculated act' by Deputy Minister on behalf of Kairon's son. On the question of Chief Minister's involvement, the commission says, 'the true explanation seems to be that these people were acting under the direction of the superior personality of the Chief Minister but were keeping him in the background. There appears to be a calculated design to so arrange the matters outwardly and on paper that the Chief Minister does not come into picture. This does not appear to be a solitary instances of keeping the Chief Minister out of the picture, for the same technique will be seen practiced in a whole variety of cases.'¹⁵ The commission's investigations into Prakash Cinema, Nandan cinema, and the host of cold storage companies told similar narratives.'

The report of S.R.Das commission was not submitted during Nehru's lifetime. It was submitted on June 11, 1964 exactly 3 days after Lal Bahadur Shastri came to power. Even Shastriji was reluctant to publish it initially hoping Kairon would quietly resign. But as he stuck to power, the Prime Minister published the report and forced him to resign. This showed the levels to which the standard of integrity and honesty had fallen and the degradation of national character as was lamented in the first generation reports.

The people increasingly feared the growth of corruption and its evil effects and this concern was expressed even in the parliament on various occasions. In June 1962, during the debate on the demands for the Minister of Home Affairs, many Members of

¹⁴ *Ibid.*, p. 40.

¹⁵ *Ibid.*, p. 41.

Parliament referred to the growing menace of corruption in administration. Replying to the debate on 6th June 1962, the then Home Minister, Lal Bahadur Shastri said,

"I feel that this matter should not be entirely left for consideration in the hands of officials. It is desirable that there should be exchange of views between them and public men of experience...I, therefore, propose to request some members of Parliament and if possible, other Public men to sit with our own officers in order to review the problem of corruption and make suggestions."¹⁶

In response to this announcement the committee on prevention of corruption was appointed under the chairmanship of K.Santhanam in 1962, which submitted its report in 1964. The most important term of reference was to review the existing machinery in India for checking corruption in the central services and to suggest practical steps that should be taken to make anti-corruption measures more effective. The commission also tried to analyze, why in spite of many central government agencies, like Delhi Special Police Establishment, Administrative Vigilance Division and Vigilance units in ministries and departments, there seems to be no decline in the incidence of corruption. It felt that various factors have operated to nullify the anti-corruption drive. The sudden extension of economic activities of the government with a large number of regulations, controls, licenses and permits provided new and larger opportunities for corruption. The quest for political power at different levels made successful achievement of objectives more important than the means adopted. Complaints against the highly placed in public life were not dealt with, in the manner it should have been dealt, if the public confidence had to be maintained. Weakness in this respect created cynicism and the growth of the belief that while governments were against corruption; they were not against corrupt individuals, if such individuals had the requisite amount of power, influence and protection.¹⁷

¹⁶ K Santhanam, *Committee on Prevention of Corruption* (New Delhi: Government Press 1964), p. 1.

¹⁷ *Ibid.*, p. 8.

Secondly, there was the protection the state gave to the services. The report observes, 'heads of department confess that even when they are morally convinced that one of the officials working under them was corrupt, they were unable to do anything because of the difficulties of obtaining formal proof or conviction. They could not even make an adverse entry in the confidential roll without their being required to justify such an entry with proof. Article 311 of the constitution as interpreted by the courts has made it very difficult to deal with our public servants. When the question of the amendment came up before the parliament, the issue of corruption was altogether ignored and overwhelming stress was laid on the protection of the individual civil servant.'¹⁸

The commission also gave a detailed account of the extent of corruption from 1956-1962 through statistical information. It started with the figures of complaints and vigilance cases dealt with by the government of India, during the period of 1st April 1956 to 31st December 1962 (refer table 1 and 2). During this period major penalties (dismissal, removal, compulsory retirement, reduction in rank) were imposed on 5,585. Government servants out of which 154 were gazetted and 37,331 were non-gazetted. It is interesting to note that the number of complaints have increased with each passing year with an exception of 1961. However, the number of pending cases also increased in the same proportion. Even the percentage of disposal dipped with an exception of the year 1960 when it improved slightly. This shows that though the malady increased and was being brought to light but the efforts to check it remained static and were not considered seriously. In table 2, which contains the figures of the vigilance cases, there is a dramatic rise in the number of cases which came in for investigation but the percentage of disposal remained dismally low. Even the number of pending cases increased as dramatically as the number of cases reported. This shows that the vigilance agency was either toothless or was not taking its work seriously. Whatever the reason, vigilance failed and corruption got an opportunity to get entrenched as weak vigilance reduced the "risk factor"

¹⁸ *Ibid.*, p. 11.

Table 1 – Complaints

Year	Total no. for disposal	No. disposed of	Percentage of disposal	Pending at the end of the year
1956 - 57	4676	3716	79.47	960
1957 - 58	8540	6463	75.68	2077
1.4.58 - 31.12.58	8313	6220	74.80	2093
1.1.59 - 31.12.59	10649	8366	78.56	2283
1.1.60 - 31.12.60	10721	8548	79.73	2173
1.1.60 - 31.12.60	10481	8148	77.74	2333
1.1.60 - 31.12.60	20461	16178	79.06	4283

Table 2 - vigilance Cases

Year	Total no. for disposal	No. disposed of	Percentage of disposal	Pending at the end of the year
1956 - 57	616	344	55.84	272
1957 - 58	3694	1974	53.43	1729
1.4.58 - 31.12.58	3714	1809	48.71	1905
1.1.59 - 31.12.59	10035	6380	63.57	3055
1.1.60 - 31.12.60	13305	9530	71.63	3775
1.1.60 - 31.12.60	15116	10973	72.52	4143
1.1.60 - 31.12.60	19277	13454	69.79	5823

An account of the number of cases investigated by the Delhi Special Police Establishment (SPE) during the years 1957-1962 classified according to the nature of offense (refer to table 3) indicates that the cases involving public servants with allegations of corruption was very high. On the other hand that involving the private persons and companies remained negligible. The cases of breach of import export

regulations were very high. This indicates that that although there was very little scope for private individuals to gain monetarily from corruption or indulge in it but when it came to bypassing regulations for personal gains, they did not mind being a party to corruption.

Table 3

Year	Cases against public servants involving allegations of bribery, corruption, misappropriation and similar types of misconduct	Cases of breach of Import Export Regulations	Cases against private persons and companies
1957	294	184	5
1958	352	137	8
1959	912	131	5
1960	940	124	6
1961	1004	82	17
1962	1168	113	34
Total	4669	771	75

Table 4

Year	No. of new cases	No. of public servants involved		
		Gazetted	Non-Gazetted	Total
1960	89	24	67	91
1961	100	27	71	98
1962	93	24	71	95

The numbers of investigated cases of possession of assets by public servants disproportionate to their known sources of income (refer to table 4) were also given in the

report. As early as 1960 the investigating authority had a sizable number of such cases. In the year 1961 the number of new cases were 100 out of which 27 were gazetted officers. This indicates the levels to which the entrenchment of corruption had reached. People were not only dishonest and corrupt, they displaying their illegally acquired wealth.

The number of cases relating to violation of import/export regulations registered by the Delhi SPE (refer to table 5) etc. was also given. The customs and excise department had

Table 5

Year	No. of firms	No. of licenses obtained as a result of malpractice	Value of licenses mentioned in col. 3 (in Rs.)	No. of firms blacklisted
1958	90	196	76,66,237	82
1959	58	139	49,83,128	129
1960	74	82	37,13,082	88
1961	156	137	47,92,054	60
1962	73	106	26,69,641	74
Total	451	660	2,38,24,142	433

always been notorious for corruption. The concept of bypassing regulations or mending them to suit certain interests was very acceptable in the customs and excise department. The companies and firms rather than corruption considered this 'business acumen'. The social acceptability of corruption had increased as is shown by the fact that between 1958 – 1962, as many as 451 firms indulged in corrupt practices and acquired in all 660 licenses worth 2,38,24,142 rupees. This shows the degree to which the moral fabric of the society had decayed.

Table 6

Ministry/Department	No. of complaints	No. of vigilance cases	Dismissal		Removal		Compulsory retirement		Reduction in rank		Other penalties	
			G	NG	G	NG	G	NG	G	NG	G	NG
1	2	3	4	5	6	7	8	9	10	11	12	13
1) Commerce & Industry	1129	1126	1	5	1	11	-	-	3	8	6	36
2) Commerce & Industry (department. of C.L.A.)	25	35	-	-	-	1	-	-	-	-	-	4
3) Community Development & Co-operation	9	7	-	2	-	-	-	1	-	-	-	1
4) Defense	4999	1186	6	59	2	48	3	7	1	59	14	437
5) Education	244	59	-	3	-	-	-	-	1	-	-	16
6) External Affairs	243	80	2	10	1	7	-	-	2	2	5	20
7) Finance (Customs and Central Excise)	7984	2746	8	104	2	147	1	7	6	131	32	906
8) Finance (Defense Div.)	107	57	-	2	-	4	-	-	1	3	2	24
9) Finance (economic Affairs)	213	70	-	17	-	3	-	-	1	3	1	18
10) Finance (Expenditure)	67	35	-	-	-	1	-	-	-	-	-	9

11) Finance (Income tax)	1678	327	4	33	4	18	2	2	4	30	19	147
12) Finance (Revenue)	-	4	-	-	-	-	-	-	-	1	-	1
13) Food and Agriculture (Dept. of Agriculture)	822	539	-	10	-	40	-	-	1	44	7	222
14) Food and Agriculture (dept. of food)	1311	934	-	23	-	46	-	-	5	17	5	548
15) Health	1595	127	-	6	-	15	1	1	-	11	2	95
16) Home Affairs	2567	609	5	62	7	50	2	11	8	64	25	72
17) Information and Broadcasting	905	260	-	13	1	20	-	4	2	10	5	79
18) Irrigation and Power	516	116	-	7	2	8	-	-	1	6	10	17
19) Labor and Employment	649	257	3	17	4	22	-	-	2	19	9	103
20) Law	15	6	-	-	-	-	-	-	-	-	-	4
21) Mines and Fuel	538	73	-	5	-	7	-	-	-	4	2	13
22) Railways	7214	2047	-	23	-	86	1	1	1	55	8	597
23) Scientific Research and Cultural Affairs	738	352	-	6	1	26	1	4	2	8	10	194
24) Steel and Heavy Industries (Dept. of Iron and Steel)	212	42	2	3	-	6	1	1	-	4	2	8

25) Transport and Communications (Dept. of C & CA)	3425	4684	-	214	4	185	6	25	3	236	23	276 9
26) Transport and Communications (Dept. of Transport)	516	510	1	93	2	25	1	2	3	14	6	84
27) Posts and Telegraphs	2842	5909	-	630	-	394	-	61	1	896	40	388 7
28) Dept. of Rehabilitation	2138	-	28 9	1	9	-	27	-	1	3	10	50
29) Work, Housing and Supply	4407	1073	7	26	1	15	2	4	2	47	10 6	227
30) President's Secretariat	-	-	-	-	-	-	-	-	-	-	-	-
31) Cabinet Secretariat	230	128	-	13	-	16	-	-	-	6	-	63
32) President's Estate	-	-	-	-	-	-	-	-	-	-	-	-
33) Prime Minister's Secretariat	-	3-	2	-	-	-	-	-	-	-	-	-
34) Planning Commission	142	55	-	1	-	-	-	-	-	-	1	26
35) U.P.S.C.	10	5	-	-	-	-	-	-	-	-	-	-
36) Delhi Administration	4861	1601	-	137	-	89	-	1	3	30	10	685
37) Union Territories except Delhi)	1527	1785	-	86	1	139	-	9	-	87	14	706

Each one of these tables throw light on the extent to which corruption had got entrenched. The fact that licenses worth 2,38,24,142 were obtained by fraud and other types of malpractice was a clear indication of the extent of the problem in the licensing activities of the government .the nature of the development game was such that 5% of the total investment on construction in the second plan had to be written off as bribes. Table 6 indicates a detailed statistical information of such cases, ministry / department wise. However all the complaints and vigilance cases do not relate to allegations or charges of bribery and corruption. The finance (customs and central excise) stands out with highest number of complaints – 7984, out of which 2746 were the vigilance cases. Even defense, which generally enjoys a high integrity image, has as many as 1186 vigilance cases registered against it. Transport and Communications (department of C& CA) has highest number of vigilance cases – 4684 registered against it. Though the total number of complaints against customs and excise are highest, transport and communications (department of C&CA) overtakes it in the number of vigilance cases. Railways follow them closely with 2047 vigilance cases registered. Delhi administration is also quite high in this ranking with 1601 vigilance cases against it. Works, housing and supplies has 1073 vigilance cases but the most interesting is the contrast between the highest and the lowest. Posts and Telegraphs has 5909 vigilance cases against it while the President's Secretariat has not even a single such case. It presents a clean picture giving a hope that other departments might follow this example. In spite of the deep entrenchment of corruption in all spheres of life the example set by the President's Secretariat does give some hope. Quite a number of them are in respect of other types of disciplinary offenses. This statistics not only indicate the increase in the quantum of corruption, but also means a more intensified fight against corruption as more people come forward to get justice if subjected to this malady.

Apart from various other recommendations, the committee gave suggestions regarding the Central Vigilance Commission, as the ace agency in implementing anti-

corruption activities of the central government. At that time function was performed by three agencies:¹⁹

- 1) Administration Vigilance Division in the Ministry of Home Affairs.
- 2) The vigilance units set up in the respective ministries /departments and their attached and subordinate offices and in the public sector undertakings.
- 3) Delhi special police establishment (which was now a part of the Central Bureau of Investigation)

Shape of Vigilance activities before 1962

The administrative ministry decided whether it should take any action on a complaint or suspicion of dishonesty or other irregularity and if it decided not to take any action the matter rested there, except when the special police establishment started an inquiry or investigation on their own. If it thought that an inquiry was called for, it either asked an officer of the department to look into the matter or handed over the case to special police establishment either for a preliminary inquiry or for instituting a regular case and investigations it.

When the result of the preliminary departmental inquiry was available, the Minister himself again took a decision whether the matter should be closed whether a regular departmental inquiry should be held, or the matter handed over to the special police establishment for instituting a case. If it decided to close the matter, the Administrative Vigilance division of the Ministry of Home Affairs did not come into the picture at all. If a regular departmental inquiry was decided upon, the case was usually made over to one of the commissioners for departmental inquiries particularly if it was related to gazetted officers or act of investigation made by the special police establishment. The ministry of railways, however, did not utilize the services of the commissioners for departmental inquiries. If the inquiry was made by one of the commissioners, the final decision was taken by the ministry, usually without consulting

¹⁹ *Ibid.*, p. 214.

the Administrative Vigilance Division, though, Union Public Service Commission was consulted whenever necessary.

In cases that were handed over to special Police establishment, it generally recommended one of three courses of action namely: (a) Criminal Prosecution (b) A regular departmental Inquiry (c) Such other minor action as the Ministry might consider appropriate.

Except in cases where they came to the conclusion that the complaint was unfounded. In such cases the matter was closed. When the SPE recommended criminal prosecution, it was in most cases necessary to obtain sanction of the President or some other prescribed authority. In cases where the sanction orders were issued by the Administrative Vigilance division, however, the Minister concerned took the substantive decision whether a sanction should be accorded. If a Ministry was not inclined to accept the SPE's recommendation, the matter came to Administrative Vigilance Commission for what could best be described as mediation.

In regard to punishment on the result of a departmental inquiry, the Union Public Service Commission's inquiry whenever and wherever sought was usually accepted. In other cases, the Ministry concerned took the final decision without consulting the Administrative Vigilance Division or the SPE. However, wherever a commissioner had made the inquiry, the punishment imposed was reported to the administrative vigilance division, who in suitable cases asked for a review. Similarly, where the earlier inquiry had been made by SPE, it in some cases, requested the Administrative Vigilance Division do have the order reviewed.

The administrative vigilance was as seen by the above procedure, functioned substantially in an advisory capacity. The arrangements in all the Ministries and Departments were mainly intended to investigate and punish corruption and misuse of authority by individual members of the services under the government of India. But there was no organic relation between the Administrative Vigilance division and the vigilance

officers of the various departments. Due to the absence of common standards in the matters relating prosecution, departmental action and the award of punishment, so in some departments the Vigilance officers took been interest in their work while others did not take their responsibility seriously. Another, problem was that in spite of a large measure of cooperation between the vigilance organizations and SPE, many loose ends still remained and rules and conventions had to be established relating to matters where there were differences between the secretaries/Head of Departments, SPE and Administrative Vigilance Division in respect of action to be taken in particular cases.

After a detailed study of the Vigilance structure and procedure, the Santhanam Commission felt that while detection, investigation and punishment of corruption and misuse of authority by individual government servants is of the utmost importance it was important that the Central Vigilance Organization was so expanded that it could deal with complaints of failure of justice or abuse of authority suffered by citizens.

Central Vigilance Organization

The Santhanam Commission in pursuance of its advice of setting up a Central vigilance organization gave detailed recommendations regarding it. The committee examined various arrangements made in some other countries like the institution of ombudsmen in Sweden and Denmark, the office of the Procurator-general in Soviet Russia before giving its recommendations.

The commission recommended that the organization may be called 'The Central Vigilance Commission' (CVC). It should consist of the following three directorates:

- a) The Directorate general of complaint and redress.
- b) The Central Police Organization
- c) The Directorate of Vigilance.

The Chief Executive of the commission may-

- a) Be designated as Central Vigilance Commissioner,
- b) Be appointed by the President by warrant under his hand and seal,
- c) Be removable in the same manner as the Comptroller and Auditor General or the Chairman or the Member of the Union Public Service Commission,
- d) Hold office for a term of six years or till he attains the age of 65, whichever is earlier,
- e) On ceasing to hold the office of Central Vigilance Commissioner, be ineligible for any further employment under the union or the state governments,
- f) For the present be of the status of a secretary to government but not subordinate to any ministry /department,
- g) By conviction, be for the present given the same measure of independence in autonomy as the Comptroller and Auditor General or the Election Commissioner or the Union Public Service Commissioner.

The commission may for the present be attached to the Ministry of Home Affairs. After a suitable period of experiment and trial, steps should be taken to put the commission on a statutory basis and when this is done the provisions regarding appointment, suspension, removal made in the constitution regarding the Comptroller and Auditor General or the Election Commissioner or the Chairman or Members of the Union Public Service Commission should be incorporated with suitable modifications.

The commission also listed the matters, which should be outside the purview of the CVC:

- a) Judicial acts of the judiciary
- b) Acts/omissions of ministers of government in their official capacity
- c) Actions of parliamentary committees whether legislative or procedural
- d) Legislative process
- e) Matters relating to security of state

- f) Discipline of armed forces
- g) Diplomatic actions
- h) Matters relating foreigners or international authorities or government relations with other countries
- i) Acts/omissions of the persons who are not public servants but wholly under the rule making power of the governor of a state except when involved with central government servants or involved in matters concerning the affairs or affecting the interests of central government or in special circumstances and with the concurrence of the state government concerned
- j) Any decision, recommendation, act, or omission in respect of which there is, under the provision of any law, a right of appeal or objection, or a right to apply for a review, on the merits of the case, to any court, or to any tribunal constituted by or under any law, whether or not that right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired.

The Central Vigilance Commission should be vested with jurisdiction and power: -

1) To inquire into and investigate –

- a) Complaints against acts or omissions, decisions or recommendation or administrative procedures or practices on the grounds that they are
 - * Wrong or contrary to law;
 - * Unreasonable, unjust, oppressive or improperly discriminatory; or
 - * In accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable unjust or improperly discriminatory;
 or
 - * Based wholly on or partly on a mistake of law or fact.
- b) Complaints those discretionary powers have been exercised for improper purposes.
- c) Complaints that a public servant –

- f) Discipline of armed forces
- g) Diplomatic actions
- h) Matters relating foreigners or international authorities or government relations with other countries
- i) Acts/omissions of the persons who are not public servants but wholly under the rule making power of the governor of a state except when involved with central government servants or involved in matters concerning the affairs or affecting the interests of central government or in special circumstances and with the concurrence of the state government concerned
- j) Any decision, recommendation, act, or omission in respect of which there is, under the provision of any law, a right of appeal or objection, or a right to apply for a review, on the merits of the case, to any court, or to any tribunal constituted by or under any law, whether or not that right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired.

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 or
 - * Based wholly on or partly on a mistake of law or fact.
- b) Complaints those discretionary powers have been exercised for improper purposes.
- c) Complaints that a public servant –

- a) to summon and enforce the attendance of any person and to examine him on oath;
- b) To require the discovery and production of any document;
- c) To receive evidence on affidavits;
- d) To requisition any public record or copy thereof from any court or office;
- e) To issue commissions for the examination of witness or documents;
- f) To require any person, subject to any privilege which may be claimed by that person, under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Central Vigilance Commissioner, may be useful for, or relevant to the subject matter of the inquiry undertaken by him;
- g) To enter any building or place where the Central Vigilance Commissioner has reason to believe that any books of accounts or other documents relating to the subject matter of the inquiry may be found, and to seize any such books of accounts or documents or take extracts or copies there from, subject to provisions of sections 102 and 103 of the Code of Criminal Procedure in so far as they may be applicable (the Central Vigilance Commissioner or any officer not below the rank of a gazetted officer, specially authorized by him in this behalf may exercise this power of entry and seizure).

The Central Vigilance Commissioner shall be responsible for –

- a) Supervising and coordinating the activities of the three directorates referred to above;
- b) Perform such other duties as may be necessary for the efficient functioning of the Commission.
- c) Make such recommendations as he may consider necessary to the ministries/ departments of the government of India in regard to the matters dealt within any one or more of the directorates referred to above;
- d) Submit an annual report to the parliament about the activities of the Commission and also drawing attention to the recommendation made by the

Commission, which have not been accepted or acted upon, by the concerned ministry or department.

- e) To initiate at such intervals as he may consider expedient review of procedures and practice of administration in so far as they relate to –
- maintenance of integrating in administration;
 - such other matters as are included within the purview of the Central Vigilance Commission.
 - appointment of Public Vigilance Committees at the capitals of all states and union territories including Delhi and prescribe their functions.(these Public Vigilance Committees may consist of 7-11 persons who are not associated with any political party and preferably consisting of retired judges of the supreme court or high courts, retired officers of high standing and prominent public men reputed for their independence and impartiality. Any member of the public should be at liberty to bring before this committee his complaint either personally or by letter. The committee will consider the complaints so received and in respect of those regarding which it considers that further investigation is necessary, the committee may forward such complaints to the Central Vigilance Commission).
 - Collection of such statistics and other information as may be necessary.

The Central Vigilance Commissioner shall be provided with such staff, in addition to the three directors, as may be necessary to enable him to discharge his responsibilities. The staff may include such number of legal advisors and technical advisors as may be necessary.

Directorate of general complaints and redress:

This directorate shall be in charge of an officer not below the rank of a Joint Secretary to Government who may be designated as director of General Complaints and Redress.

The director of Complaints shall be appointed with the concurrence of the Vigilance commissioner and shall be subordinate to the vigilance Commissioner.

It shall be the duty of the Director of Complaints to inquire into or investigate or cause an inquiry or investigation to be made into.

- (a) All complaints forwarded by the Committee on Petitions of the Lok Sabha and the Rajya Sabha;
- (b) All complaints forwarded by the Public vigilance Committees;
- (c) All complaints forwarded by Members of Parliament;
- (d) Other complaints in respect of matters falling within the purview of the Commission received in the commission or which come to its notice in any other manner whatever, if they are, in its opinion, such as need to be investigated or inquired into.

Except in cases where the head of the department certifies that it is not in the interest of the security of the State to give the Director of Complaints access to any official records or to permit any official to give him any information contained in unpublished official records, he shall have –

- (a) Access to official records;
- (b) The right of requiring any person, official or non-official, to give him any information including the production of documents;
- (c) Of examining the persons on oath, after this power is given by law.

The director of Complaints may refuse to take up for investigation or inquiry a complaint if –

- (a) It relates to matters not included in the jurisdiction of the Central Vigilance Commission;
- (b) It is trivial, frivolous or lacking in good faith.

The Director of Complaints will conduct his investigation in private and shall observe the strictest secrecy in respect of information disclosed to him.

The Director of Complaints shall be provided with adequate staff and sufficient number of investigating officers including technical personnel to enable him to discharge his duties.

The Director of Complaints may on taking up any inquiry or investigation first get the comments of the Ministry or Department or the official concerned. If he finds that the comments are satisfactory he shall intimate the complainant of the same, if there is a known complainant. Unless the complainant wishes to adduce further evidence, he shall close the inquiry or investigation. If he finds that the comments of the ministry or Department or the explanation of the official concerned are or is not satisfactory or if the complainant wishes to adduce further evidence he may carry on further inquiry or investigation until the complaint is found to be justified or dismissed as unjustified.

If on completion of the investigation, the Director of complaints is of the opinion that the decision, recommendation, act or omission, which was the subject matter of investigation is –

- (a) Base wholly or partly on a mistake of law or fact;
- (b) Wrong or contrary to law;
- (c) Unreasonable, unjust, oppressive or unreasonably (improperly) discriminatory
- (d) The result of exercise of discretionary powers and such powers had been exercised for improper purposes or irrelevant grounds;
- (e) In accordance with a rule of law or provision of any enactment or practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

He may, after obtaining the approval of the Central Vigilance Commissioner, reports his reasons there for to the appropriate department or organization. In any such

case, he may request the department or organization to notify him within a specified time of the steps, if any that are proposed to be taken on his opinion. He shall also send a copy of his report to the Minister concerned.

If within a reasonable time after a report is made, no action is taken, it seems to the Director of Complaints to be adequate and appropriate, he shall report the matter to Central Vigilance Commissioner, who, after considering the comments, if any, made by or on behalf of any department or organization affected, may take action as provided for in the previous paras.

If on completion of the investigation, the director of Complaints has reasons to believe that the act or commission, decision or recommendation, is the result of some corrupt practice or misconduct amounting to an offense punishable in law, he may take over the case to the special police establishment for further investigation.

If on completion of the investigation, the Director of Complaints finds that the decision or recommendation is a result of a misconduct of a nature that need not be investigated by the SPE but which requires to be dealt with departmentally, he shall make over the case to the Director of Vigilance for such action as may be necessary. The Director of Complaints shall keep a watch over the action taken in regard to his recommendation except in cases made over to the Director of Vigilance or SPE.

Director of Vigilance

This directorate shall be in charge of an officer of the rank not below a Joint Secretary to Government and shall be appointed with concurrence of the Vigilance Commissioner. There shall also be one Chief Officer in each Ministry/Department and vigilance officers in all subordinate and attached offices and in all public sector undertakings. The Chief Vigilance Officer may be of the rank of Deputy Secretary and Vigilance officers of a rank of under secretary or an equivalent rank. In the Public Sector Undertaking s the vigilance officer may be of such ranks as may be decided by the head

of the undertaking with consultation of the Director of vigilance. The Chief Vigilance officers should be appointed in consultation with the Director of Vigilance and the Vigilance Officers in subordinate and attached offices should be appointed in consultation with the Chief Vigilance Officer of the Ministry or Department. Any difference of opinion regarding the appointment of Chief Vigilance Officer should be referred to the Vigilance Commissioner and no person whose appointment as the Vigilance Commissioner objects to Chief Vigilance Officer should be so appointed.

The duties and responsibilities of the Director of vigilance shall be –

- (a) To co-ordinate and guide the activities of the Chief Vigilance officers and other Vigilance Officers in the respective Ministries/departments and to prescribe the duties of Vigilance Officers of all categories.
- (b) To initiate periodical assessments of the extent and modes of corruption and the measures necessary to combat the same.
- (c) To take such further action as may be necessary –
 - In the cases made over to him by the Director of Complaints;
 - In the cases referred to him by the director of Special Police Establishment;
 - In cases relating to disciplinary offenses that come to his notice otherwise
- (d) To determine the nature of disciplinary proceedings to be initiated and to initiate, conduct and complete such proceedings in cases relating to class I and II Government servants particularly those cases which may result in dismissal, removal compulsory retirement or withholding of pension in full and the more important of such cases relating to Class III Government servants.
- (e) To refer for necessary action to the Ministry/Department concerned. with his advice, cases in which he considers that it would be sufficient to impose a penalty lesser than dismissal, removal, compulsory retirement, or withholding of pension in full.

- (f) To decide, on the report of the Central Police Organization, whether a prosecution or department action should be resorted to in the first instance and to issue the sanction for prosecution in cases in which it is decided that a prosecution should be launched and where such sanction is necessary under law.(in taking this decision he may consult the administrative ministry/department on such matters as he may consider necessary. If there is any difference of opinion in respect of any such matter between the Inspector General, Central Police Organization and the Director, Vigilance or the Ministry or the Department concerned, a reference should be made to the vigilance commissioner for decision).
- g) To deal with cases taken to a court either by way of a writ or suit in matters arising out of disciplinary proceedings.

The Chief Vigilance Officer and other Vigilance Officers, besides being the link between the Central Vigilance Commission and the Ministry /Department, should as at present continue to be the Special Assistants assisting the Secretary or the head of the department in combating corruption, misconduct and malpractice in the Ministry/ Department. The Chief Vigilance Commissioner shall be responsible for coordinating and guiding the activities of other Vigilance Officers in the attached and subordinate offices and other organizations for which his Ministry /Department is responsible to Parliament.

Whole time or part time assistance of a deputy superintendent of police from the central police organization may be made available to the Chief Vigilance Officer(s) of each or a convenient group of departments.

A separate inquiries Wing should be attached to the directorate of Vigilance consisting of 3 to 5 Commissioners for Departmental Inquiries whose function will be to hold inquiries in all disciplinary proceedings, initiated and conducted by the Director of Vigilance and such other cases as may be entrusted to them for inquiry with the concurrence of the director. The directorate of Vigilance should be provided with such staff as may be necessary.

Central Police Organization

The Special Police establishment may form part of the Central Bureau of Investigation when the Central Bureau of Investigation is set up. The Central Vigilance Commissioner and the Chief of the Central Bureau of Investigation by which the Central Bureau of Investigation would be obliged to take up all cases referred to it by the Central Vigilance Commission either for secret inquiries or for open investigation may evolve a working arrangement.

The Delhi Special Police Establishment should consist of 3 wings, namely:

- (a) Secret Intelligence;
- (b) Investigation;
- (c) Prosecution.

The duties of the Secret Intelligence Wing shall be –

- (1) To collect information in secret about corruption and other malpractice on the part of public servants;
- (2) To assist the Director of General Complaints and Redress in confidential inquiries of any kind.

The duties of the other two wings should continue to be what they are at present. Till such time as the Central Bureau of Investigation is constituted the Special Police Establishment may form part of the Central Vigilance Commission.

Scheme Of Central Vigilance Commission as Approved By The Government

The organization may be called the "Central Vigilance Commission". It may for the present be attached to the Ministry of Home Affairs. The Central Vigilance Commission will have jurisdiction and powers in respect of the matters to which the executive power of the union extends,

- a) To undertake any inquiry into the transaction in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner;
- b) To cause an inquiry or investigation to be made into –
- any complaint that a public servant has exercised or refrained from exercising his powers for improper or corrupt purposes;
 - any complaint of corruption, misconduct, lack of integrity or other kinds of malpractice or misdemeanor on the part of a public servant including members of the All India Services even if such members are for the time being serving in connection with the affairs of a state government;
- (It will be necessary to amend, in consultation with the state governments, the relevant rules under the All India Services Act in order to bring the members of those services under the purview of the commission).
- c) To call for reports, returns and statements from all Ministries/departments/undertakings so as to enable it to exercise general check and supervision over the vigilance and anti-corruption work in the Ministry/ Department /Undertaking;
- d) To take over under its direct control such complaints, information or cases as it may consider necessary for further action, which may be either:
- to ask the central bureau of investigation to register a regular case and investigate it, or
 - to entrust the complaint, information or case for inquiry to either central bureau of investigation or to the Ministry/Department/ Undertaking concerned
- e) In cases referred for inquiry as mentioned above, the report of the inquiry will be forwarded to the commission so that on a consideration of the report and other relevant records, it may advise the concerned ministry / department / undertaking as to further action:

- f) The central bureau of investigation will forward to the ministry of home affairs through the vigilance commission the final report in all cases investigated by the bureau in which it considers that a prosecution should be launched, provided that the sanction for such prosecution is required under any law to be issued in the name of the president ; and the bureau will simultaneously send a copy to the Ministry / department / undertaking concerned for any comments which it may wish to forwards to the commission;
- g) The commission will advise the Ministry of Home Affairs after examining the case and considering any comments received from the concerned Ministry /Department /Undertaking, whether or not prosecution should be sanctioned. (Orders will, thereafter be issued by the Ministry of Home Affairs in whom the power to accord such sanction will be vested);
- h) In cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the central bureau of investigation the case will be reported to the vigilance commission and the authority will take further action after considering the commission's advice;
- i) The commission will have the power to require that the oral inquiry in any departmental proceedings except in petty cases, should be entrusted to one of the commissioners for departmental inquiries.(a suitable number of commissioners for departmental inquiries will be attached to the Central Vigilance Commission);
- j) The commission will examine the report of the commission for departmental inquiries, which will in all cases be submitted by the Commissioner for Departmental Inquiries to the Central Vigilance Commission, and the Commission will forward the record of the case to the appropriate disciplinary authority with its advice as to further action.
- k) In any case where it appears that discretionary powers had been exercised for improper or corrupt purposes the Commission will advice the Ministry/Department/Undertaking that suitable action may be taken against

the public servant concerned; and if it appears that the procedure or practice be appropriately changed, or changed in a particular manner;

- l) The commission may initiate at such intervals as it considers suitable review of procedures and practices of administration in so far as they relate to maintenance of integrity in administration;
- m) The Commission may collect, such statistics and other information as may be necessary;
- n) The Commission may obtain information about action taken on its recommendations;
- o) The commission will submit an annual report to the Ministry of Home Affairs about its activities drawing particular attention to any recommendation made by it which had not been accepted or acted upon; and the Ministry of Home Affairs before each House of Parliament will lay the report.

The Central Vigilance Commission will be provided with such staff as may be necessary for the proper discharge of its duties and responsibilities. The staff may include such number of legal advisers and technical officers as may be necessary.

The head of the commission -

- (a) May be designated "Central Vigilance Commissioner";
- (b) Be appointed by the President by warrant under his hand and seal;
- (c) Be removable in the same manner as the Chairman or Member of the Union Public Services Commission;
- (d) May hold office for a term of six years or till he attains the age of 65 whichever is earlier;
- (e) On ceasing to hold the office of Central Vigilance Commissioner, be ineligible for any further employment under the Union or State Governments or for holding any political public office;
- (f) For the present be of the status of a Secretary to Government but in the exercise of his powers and functions not subordinate to any Ministry/Department;

(g) By convention, be for the present given the same measure of independence and autonomy as the Union Public Services Commission.

Note: - It is considered necessary that the best person available, irrespective of his age, should be appointed the first Vigilance Commissioner and that Government should also have the freedom to determine his tenure. so the conditions laid down in clause (d) of para 5 may not be observed in the first appointment. Even for future appointments, clause (d) may have to be modified after further consideration.

The Central Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commissioner and for generally coordinating the work of and advising the Ministries/Departments/Undertakings in respect of all matters pertaining to maintenance of integrity in administration.

There will be one Chief Vigilance Officer in each Ministry/Department and Vigilance Officers in all subordinate and attached offices, and in all public sector undertakings. The Chief Vigilance Officer may be atleast of a rank of Under Secretary. In the public sector undertakings the Vigilance Officer may be of such rank as may be decided by the head of the undertaking in consultation with the Central Vigilance Officers in subordinate and attached officer should be appointed in consultation with the Chief Vigilance Officer of the Ministry/Department. No person whose appointment as the Vigilance Commissioner objects to Chief Vigilance Officer should be so appointed.

The Chief Vigilance Officer and other Vigilance Officers, besides being the link between the Central Vigilance Commissioner and the Ministry/department, should, as at present, continue to be the special assistants to the Secretary or the Head of Department/Undertaking in combating corruption, misconduct and malpractice in the Ministry/Department/Undertaking. The Chief Vigilance Officer will be responsible for coordinating and guiding the activities of other organizations for which his Ministry/department is responsible to Parliament.

Full time or part time assistance of a Deputy Superintendent of police from the CBI may be made available to the Chief Vigilance Officer(s) of each or a convenient group of Ministers/Department/Undertakings. The Central Vigilance Commissioner will have the power to assess the work of the Chief Vigilance Officers and Vigilance Officers and the assessment will be recorded in the character roles of the officers.

The Central Vigilance Commissioner will take the initiative in prosecuting persons found to have made false complaints of corruption or lack of integrity against public servants.

Appraisal

The commission's recommendations were not accepted in toto. Rather a very weak sibling of the recommended Central Vigilance Commissioner for created which did not meet the expectations the Santhanam Committee had created. The cause of three directorates forwarded by the Santhanam Committee was not adhered to. Only a Commission, which was attached to the Home Ministry, was created. This took away the very spirit of the Commission and left a mere skeleton framework. The Commission was attached to the Ministry of Home Affairs and not given a statutory status nor power of an inquiry commission as was expected to be done. In its jurisdiction and powers, the power to look into acts, omissions, decisions or recommendations or administrative procedures and practices contrary to law or wrong, unreasonable, unjust, oppressive or improperly discriminatory or in accordance to law but still unjust was not provided. This left the commission only an organization of Vigilance against individuals rather than against a system. Similarly clauses like giving recommendation

1. To minister in charge of the Department of the nature that the omission may be rectified, law or rule varied. or matter given further consideration.
2. Watch over implementation, acceptance or otherwise of the recommendation made and to bring to the notice of the Prime Minister cases of non-

implementation or non-acceptance of the recommendation, if the reasons for such non-implementation or non-acceptance are not satisfactory, and

3. To initiate, conduct and complete such action as may be considered appropriate including prosecution against a public servant found guilty of exercising powers for improper or corrupt purposes or unjustifiably or corruptly refrain from exercising his powers were omitted which left the CVC toothless and clawless.

Even in the terms and conditions of appointment of CVC a clause was attached that in the first appointment the tenure of 6 years for 65 years of age could be ignored and later this could be modified after further consideration which further negatively affected the independence of the CVC.

The annual report of the CVC instead of being submitted to the two parliaments was to be submitted before the Ministry of Home Affairs which later placed it before each house of the Parliament which enhanced its subordinate status undermining the expectation of it being as independent of CAG or UPSC as was recommended by the Santhanam Commission.

It virtually remained an advisory commission, which did not have any power to ensure that its decisions or recommendations were implemented. This defeated the very purpose of its creation and made a mockery in the name of a strong institution to check and curb corruption.

CHAPTER 3

FUNCTIONING OF CENTRAL VIGILANCE COMMISSION

An aspect of administration, which was neglected by the constitution-makers, was machinery, which could control the menace of corruption. Probably the idea that corruption could become such a menace had not occurred to them. But as years passed this neglect was sought to be rectified by creating the 'Administrative Vigilance Division' in 1955 in the Ministry of Home Affairs to assume over all responsibility for anti-corruption measures and to provide the necessary drive, direction and coordination, to ensure sustained and vigorous action by individual ministries / departments. However, it was soon realized that this division was not sufficiently empowered and so was not very successful in achieving its objectives. In 1962, the Government of India, as discussed earlier, appointed a committee on prevention of corruption under the chairmanship of Shri K. Santhanam to review the above mentioned arrangements for checking corruption in the central services or bureaucracy and to advise practical steps to be taken to make anti-corruption measures more effective. The committee submitted an interim report in February 1963, recommending the setting up of the Central Vigilance Commission. The decision of the government of India to set up the Commission was announced in the Ministry of Home Affairs Resolution Number-24/7/64-AVD, dated 11th February 1964. It sounds so prompt and sincere on the part of the government to appoint the Central Vigilance Commission(CVC). But as we have seen, the deviance from the contents of the recommendations of the K Santhanam commission and those of the resolution of the government (as discussed in chapter -2) show how sincere were the efforts of the central leadership in controlling corruption. However, the Chief Vigilance Commissioner assumed the charge of the Central Vigilance Commission created by the government on 19th February 1964 and the commission was deemed to have started functioning from that date.

Central Vigilance Commission from 1964-1998

Chief Vigilance Commission was expected to be the apex vigilance institution, free of the control from any executive authority, monitoring all vigilance activity under the central government and advising the various authorities in the central

government organizations in planning, executing, reviewing and reforming their vigilance work. However, in the initial period it remained a toothless organization, which could scare but not bite. This was because of two reasons, firstly, it was placed under the Ministry of Home Affairs instead of being an example of Independent Regulatory Body, free from control of any executive authority, which gave it a rather subordinate image. Secondly, it remained largely an advisory body and there was no strong mechanism by which it could ensure that its advises were heeded to. If we go by the statistics given in the annual reports of the Central Vigilance Commission, we get a very bright and optimistic picture of a successful organization, which is effectively vigilant in controlling corruption. The figures from 1986 -1998 show-

TABLE-1

S. No.	Year	Major Penalty	Minor Penalty	Total
1.	1986	2377	3200	5277
2.	1987	2820	4211	7031
3.	1988	2910	4497	7397
4.	1989	2534	4896	7430
5.	1990	2606	5641	8247
6.	1991	2507	5585	8092
7.	1992	2629	5436	8065
8.	1993	3168	5790	8958
9.	1994	2808	5711	8517
10.	1995	3232	6198	9430
11.	1996	3044	6109	9153
12.	1997	3423	7183	10606
13.	1998	3747	6626	10373

Source: Central Vigilance Commission Annual Reports: 1986-1998.

If we go by the statistics, it is heartening to see the continuous rise in the total number of cases in which major or minor penalties were awarded and the total number of cases, which were looked into by the commission. Although there has been some years when the number has actually gone down but on the whole the trend shows a rise in the number of cases. But this is only one side of the coin, the other

side being the non-acceptance of the commission's advice. Again statistics is misleading in this case. According to it-

TABLE-2

1990	12
1991	20
1992	10
1993	10
1994	11
1995	2
1996	6
1997	11
1998	13

Source: Central Vigilance Commission annual reports-1990-98

If we go by the numbers alone, the cases of non-acceptance or improperly dealt cases are insignificant in relation to the total number of cases dealt. But the fact is that a large number of cases that were dealt involved relatively uninfluential officials. It is difficult for a commoner to bring up a case against an influential and well-connected official and the number of such cases would remain miniscule and the justice in such cases would actually determine the effectiveness of any vigilance organization. In such cases it would be difficult to award penalties as such officials would be in a position to tamper with the evidence or use their influence and get away scot-free. Where such penalties are awarded, it becomes extremely important that the penalties are carried out and the culprits punished. However, a number of non-acceptances prove that even where the Commission was able to book such officials, the administrative agencies managed to save them.

For instance in 1994, there were five cases of non-acceptance by a single department¹. (Department of Revenue). In the first case, an officer accused of

¹ *Central Vigilance Commission Annual Report 1994* (New Delhi: Government of India Publication, 1994).

offering bribe to his superior (Assistant Commissioner of Income Tax) was let off on technical grounds. In the second case a delinquent official was exonerated and promoted even when a second major penalty case was pending against him. The delinquent official was a Deputy Commissioner of Income Tax. In the third case, proceedings against an Assistant Collector of Customs were dropped without any valid reason. In the fourth case, harassment for extracting illegal gratification by a Superintendent was viewed mildly. In the fifth case the lapse of allowing an excess drawback of a large sum by Appraiser of customs house was ignored.

Similarly, in 1995², the same department – Department of Revenue (CBEC) – failed to take any effective follow-up action to enquire into the smuggling activity or the role-played by the Customs Inspector and the private citizen in question. In 1996³ a scan tainted case related to SBI was dealt leniently involving Deputy Managing Director and General Manager involving an amount of 16.5 crores.

The zenith was reached in 1997⁴ when the Andaman & Nicobar Administration went ahead with an irregular closure of a case where the Commission had advised major penalty proceedings against Assistant Secretary (vigilance).

Such cases tarnished the image of an agency that was supposed to be beyond doubt in its ability to check corruption. Though the statistics point a success story, the reality was biting. There was no perceptible dent made in the prevalence of corruption in the country. Rather corruption, it was felt, was increasing and getting entrenched with time. This fact was also being realized by the government, which made a halfhearted attempt to give Central Vigilance Commission a statutory position and thus give it more powers. Since its inception in 1964, the Central Vigilance Commission had been functioning on the basis of an administrative order of the government and was intended to be replaced by a law, which, however, did not happen till date. The need to make Central Vigilance Commission a statutory body

² *Central Vigilance Commission Annual Report 1995* (New Delhi: Government of India Publication, 1997).

³ *Central Vigilance Commission Annual Report 1996* (New Delhi: Government of India Publication, 1996).

⁴ *Central Vigilance Commission Annual Report 1997* (New Delhi: Government of India Publication, 1997).

was being increasingly felt in all circles of the society but the govt. remained indifferent to it.

Vineet Narain Case Verdict

The danger mark was crossed when the country was rocked by the Hawala scam involving many big shots. The Supreme Court in the judgment of this case, formally known as Vineet Narain vs. the Government of India case, took upon itself the task of elevating the position of Central Vigilance Commission. This case itself has an interesting background. The militants of Kashmir whose cross border terrorism has now attracted international attention had been operating in India for more than twenty years. When the police enquired about how they were getting the financial resources, it was found that they were getting the money through the Hawala route. The police found that the Hawala dealer, a certain Mr. Jain was not only helping the militants of Kashmir but also politicians, bureaucrats and businessmen who were also using the same Hawala route for their operations. In India, therefore, a vicious circle of corruption involving 'neta, babu, lala, jhola and dhadha' – the corrupt political leader, bureaucrat and the corrupting businessmen, NGOs and criminals was in existence.

The Supreme Court in the Vineet Narain case on December 18, 1997 said that in order to insure that two key agencies involved in investigation of corruption cases, namely the Central Bureau of Investigation, which looks into the criminal aspect and the Enforcement Directorate under the Ministry of Finance, Department of Revenue, which looks into the foreign exchange aspects of money laundering should be shielded from outside influences. The Central Vigilance Commission should be made into a statutory body and must be able to play a role in supervising these two agencies. The judgment further said that the Central Vigilance Commission should be made a multi-member body with four vigilance commissioners and one Chief Vigilance Commissioner. A selection committee consisting of the Prime Minister, the Home Minister and the leader of the opposition in the Lok Sabha should do the selection of the Central Vigilance Commission.⁵

⁵ "*Vineet Narain VS Union of India*", Supreme Court Cases 226, Government of India Publication. (1998) 1 SCC.

The Central Vigilance Commission till that time was only operating on an administrative order and there was no formal law behind its constitution. The Central Vigilance Commission enjoys a statutory standing in view of the observation of the Supreme Court in para 58 of The Vineet Narain case verdict although till now there is no statute supporting it. The Central Vigilance Commission enjoys the powers as if the law exists.⁶ This is possible through Article 141 of the Constitution of India, because of which the judgment itself has the force of law till the law is passed by the Parliament. Article 141 says that any law declared by the Supreme Court shall be binding on all courts.

The Central Vigilance Commission's Statutory Story

After the announcement of the Vineet Narain case verdict on December 18, 1997, the Government in accordance to it issued an ordinance on August 25, 1998 that had to be replaced by a law. It accepted the Supreme Court's suggestion of having a selection committee consisting of the Prime Minister, Home Minister and the Leader of Opposition in the Lok Sabha for the selection of the Central Vigilance Commission. The Central Vigilance Commissioner thus, selected was given the warrant of appointment and administered oath of office by the President of India. The Central Vigilance Commission was made a multi-member body but there was only one Vigilance Commissioner to assist the Central Vigilance Commissioner. The ordinance defined the functions and powers of the Central Vigilance Commission as under:⁷

- 1 (a) Exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act 1988.
- (b) Inquire or cause an inquiry or investigation to be made on a reference made by the central government, wherein it is alleged that a public servant being made an employee of the central government or a corporation established by or under any central act, government company, society and any local authority

⁶ *Ibid.*

⁷ "Acquaintance with CVC: Frequently Asked Questions" . Central Vigilance Commission. <http://www.cvc.nic.in>

owned or controlled by that government has committed an offence under the Prevention of Corruption Act, 1988.

- (c) Inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988.
- (d) Grant approval or otherwise for the conduct of investigation into allegations of corruption under the Prevention of Corruption Act, 1988 against the persons mentioned in section 6A of the Special Police Establishment Act, 1946 in accordance with the regulations made in this behalf.
- (e) Review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Criminal Act, 1988.
- (f) Review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Criminal Act, 1988.
- (g) Tender advice to the Central Government. corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise.
- (h) Exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

2. The persons referred to in (c) of sub-section (1) are as follows: -

- (a) Group 'A' officers of the Central Government.
- (b) Such level of officers of the corporations established by or under any Central Act, Government companies societies and other local authorities, owned or controlled

by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (c) of sub-section (1).

3. (a) the proceedings of the Commission shall be conducted at its headquarters.
 - (b) The Commission shall observe such rules of procedure in regard to the transaction of the business as may be provided by regulations.
 - (c) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior most Vigilance Commissioner present at the meeting, shall preside at the meeting.
 - (d) No act or proceeding of the Commission shall be invalid merely by the reason of –
 - (i) any vacancy in, or any defect in the constitution of, the Commission; or
 - (ii) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or
 - (iii) any irregularity in the procedure of the Commission not affecting the merits of the case.
4. (a) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorize one of the Vigilance Commissioners to act as the Central Vigilance Commissioner to fill such vacancy.
 - (b) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence or leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorize in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

5. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely: -

- (a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- (b) Requiring the discovery and production of any document.
- (c) Receiving evidence on affidavits.
- (d) Requisitioning any public record or copy thereof from any court or office.
- (e) Issuing commissions for the examination of witnesses or documents; or
- (f) Any other matter, which may be prescribed.

6. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter xxvi of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

The ordinance lapsed and again it was issued in January 1999 because an ordinance has a life of 6 months or six weeks after the Parliament session starts, whichever is earlier. The second ordinance also lapsed and as the Parliament was not in session, it could not be resumed. To carry on the functioning of the Central Vigilance Commission, a government notification was issued on 4th April 1999 according to which the Central Vigilance Commission is functioning till today. It defines the powers and functions of the Central Vigilance Commission as follows:⁸

- (a) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation, established by or under any Central Act, Government Company, society and any local authority

⁸ *Ibid.*

owned or controlled by that Government, has committed an Offence under the Prevention of Criminal Act, 1988.

(b) To cause an inquiry or investigation to be made into any complaint against any official belonging to the, following category of officials, namely: -

(i) Group 'A' Officers of the Central Government;

(ii) Such level of officers of the Corporations established by or under any Central Act,

Government companies, societies and other local authorities, owned or controlled by the Central Government may, by notification in the Official Gazette, specify in this behalf, wherein it is alleged that such official has committed an offence under the Prevention of Criminal Act, 1988.

(c) Review the progress of applications pending with the competent authorities for sanction of prosecution under Prevention of Criminal Act, 1988.

(d) Tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies, and local authorities owned or controlled by the Central Government on such matters as may be referred to it by the Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(e) Exercise superintendence over the vigilance administration of the various ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

The proceedings of the Commission shall be conducted at its present headquarters. The Commission shall observe such rules of procedure and the principles of natural justice in regard to transaction of its business. The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior most Vigilance Commissioner present at the meeting, shall preside at the meeting.

However, half-hearted efforts to formally assign statutory status to Central Vigilance Commission continued. The Central Vigilance Commission bill 1999, which could not be passed by the parliament, defined the powers and functions of was mentioned in the government of India notification of April 4, 1999. Another Central Vigilance Commission bill to replace the notification and implement the Supreme Court's directive was introduced in the Lok Sabha in 2000. Even though it was passed by the Lok Sabha, it could not be passed by the Rajya Sabha as the parliament got dissolved and the bill lapsed. In the current Lok Sabha in December 2000, the Central Vigilance Commission bill was introduced again and it was referred to a standing committee consisting of members of both the houses of parliament. On 22nd November, the standing committee submitted its report to the parliament. A selected portion of this report makes an interesting reading.⁹

Clause 8 regarding the functions and powers of the Central Vigilance Commission -

- a) The committee observed that as per the provisions of clause 8 (1) (a) the Central Vigilance Commission has been vested with the power of exercising superintendence over the functioning of the Delhi Special Police Establishment in respect of offences committed under the prevention of corruption act, 1988 or the code of criminal procedure 1973 with which a 'public servant' may be charged. In this regard the committee notes that the term 'public servant' has not been confined only to the civil servants in accordance to the scope of the bill. The committee therefore, recommend that the term 'public servant' appearing in clause 8 (1) a may be spelt out to read as 'public servant' appearing in sub section (2). Similarly the term 'public servant' appearing in clause 8 (1)c be specified to read as 'public servant' specified in sub section (2).
- b) The committee further felt that clause 8(1) (a) has been incorporated on the recommendations of an independent review committee which recommended that in order to insulate CBI from all the pressures and from other considerations, the superintendence should vest with an independent agency like the Central Vigilance Commission. The commission, however, feels that the word 'superintendence' occurring in this clause should have a restricted meaning so

⁹ N Vittal, "Initiatives for Tackling Corruption in Public life in India" Paper presented at the International video link session with British and Indian participants, British Council, New Delhi, 2002.

that it may not amount to undue interference in the functioning of the CBI. The committee, therefore, recommended that the existing proviso to clause 19 of the bill may be a part of sub-clause 8 (1) (a) so as to provide that 'the commission shall not exercise its powers in such a manner so as to require the Delhi special Police Establishment to investigate or dispose of any case in a particular manner'. The committee as a consequence, also recommended that the existing clause 19 may be made a part of clause 8 where it may be incorporated as a sub-clause and clause 19 may accordingly be deleted as an individual clause.

- c) The commission further observes that the wordings 'exercise superintendence over the vigilance administration' occurring in clause 8(1)(g) are likely to give unrestricted powers to the Central Vigilance Commission to interfere in the day to day administrative functioning of the government bodies. In this regard, the committee observes that the Central Vigilance Commission, which is an advisory body, has already issued a number of instructions to various ministries /departments /organizations of the central government on several measures which appropriately fall within the executive authority of the government and which has created difficulties in their implementations. According to the legal advice, the word 'superintendence' includes the powers to give general policy directions. Moreover, it is the central government, who is and will be accountable to the parliament. It is therefore, considered appropriate that the powers to give general policy directions including on vigilance and disciplinary matters rests with the central government. With a view to avoid unintended implications of the word 'superintendence' the committee recommended that the existing clause 8(1)(g) may be substituted with:

- (g) Exercise superintendence over the vigilance administration of various ministries of the central government or corporations established by or under any central act , government companies, societies and local authorities owned or controlled by that government :

"Provided that nothing contained in this clause shall be deemed to authorize the commission to exercise superintendence over the vigilance administration in a manner not consistent with the directions relating to the vigilance matters issued by the

government and to confer power upon the commission to issue directions relating to any policy matters”.

The interesting point here is that the parliamentary committee made recommendations to dilute the powers of the Central Vigilance Commission by the following:

- 1) The single directive under which the officers of the level of joint secretaries and the above cannot be investigated by the police unless government gives the permission is sought to be reintroduced this provision was held to be unconstitutional and violating article 14 of the constitution of India which guarantees equality and equal protection of law twice by the Supreme Court but still the provision is sought to be introduced again.
- 2) The power of the Central Vigilance Commission or general superintendence over the vigilance administration of the government of India organizations is sought to be restricted by introducing a clause that the directive given by the Central Vigilance Commission will not go against the policies of the government. Policy is what the government of India says it is. The attempt to dilute the Central Vigilance Commission bill also indicates that there may not be much enthusiasm in the politicians to make the Central Vigilance Commission a powerful organization to check corruption. The bill however, is yet to be passed and it has not yet been put for discussion on the floor of the house.

The Changed Central Vigilance Commission

In spite of the hurdles placed in its way the Central Vigilance Commission has come a long way since its inception. The Vineet Narain case was a landmark in its journey. This case has made Central Vigilance Commission much powerful than before. There are two very significant differences between the old, which existed till 1997, and the Central Vigilance Commission, which came into being in 1998. The Vineet Narain case gave the new Central Vigilance Commission a statutory position, which was absent before 1998. The second important distinction between the Central Vigilance Commission before 1998 and the current Central Vigilance Commission is that earlier the Central Vigilance Commission was a single member body. But now it

has been made a multi-member body. At present there is one Chief Vigilance Commissioner and one Vigilance Commissioner. The Chief Vigilance Commissioner and the Vigilance Commissioner after the 1998 ordinance are selected by a committee consisting of the Prime Minister, Home Minister, and the leader of the opposition of the Lok Sabha. This system is designed to ensure the objectivity and neutrality of the two offices. Once appointed the Chief Vigilance Commissioner has the tenure of four years and the Vigilance Commissioner has the tenure of three years. They are appointed by the president of India by a warrant of appointment.

Functioning of the New Central Vigilance Commission

Creating awareness:

The new Central Vigilance Commission has been working quite sincerely and has definitely showed an unprecedented vigour and enthusiasm in checking corruption and used its newly acquired power and status very cautiously however, the entrenchment and extensivity of corruption in our country has made its efforts dwarf-like in comparison. The biggest challenge faced by it was to erase its image of being a token organization, which could easily be side, tracked by the bigwigs. The Central Vigilance Commission had existed for more than 34 years, yet till 1998, there was not much general awareness of its existence or functioning. This was because the approach adopted by the Central Vigilance Commission was that of an advisory body, which advised the government departments consulting it. So, there was no need for an activist approach or a high profile approach by the Central Vigilance Commission. But the Central Vigilance Commission became an organization attracting national attention because of the Vineet Narain case. The changed Central Vigilance Commission capitalized on this new found attention and issued directive (dated 12/3/1999) given to all government organizations under the purview of the Central Vigilance Commission that they should display a board prominently at the entrance of their offices stating- 'DO NOT PAY BRIBES, IF ANYBODY ASKS FOR IT , COMPLAIN TO THE CHIEF VIGILANCE OFFICER/ CHIEF VIGILANCE COMMISSIONER.'. The names and the contact numbers of the officers concerned should also be displayed on the board this had a good impact as a number of people did not know whom to contact and where to complain in case they faced harassment

by corrupt officials. In fact the number of complaints registered with the Central Vigilance Commission registered a substantial increase:

Table-3

Year	1996	1997	1998	1999	2000	2001*
No. of complaints	590	1203	2274	5516	12401	3493

Source: N Vittal, "Public Complaint Mechanism: India" <http://www.cvc.nic.in>

* Data is for three months.

The substantial increase in 2000 proves the point. Such a response by the public also helped to create a 'high risk' environment for the corrupt officials. Complaints were also received through e-mails and on an average about 110 complaints were received by the Central Vigilance Commission per day on an average. In addition, departments also sent cases to the Central Vigilance Commission for advice. The Central Vigilance Commission has taken the initiative to deliver about 100 lectures per year, most of them on the issue of corruption and write articles on the in newspapers to create awareness on the subject of corruption.

To make the information about Central Vigilance Commission easily available, a web-site was opened and full information about Central Vigilance Commission was displayed. The vigilance manual, which was considered a restricted document till then was also made public and was available online. The most effective means to ensure speedy and just disposal of a case is to bring it to public knowledge and make it transparent. To meet this objective the Central Vigilance Commission took a very dramatic initiative and displayed the names of charged officers i.e., the public servants who were facing corruption charges and against whom inquiries have been completed and action for penalty was recommended by the Central Vigilance Commission on its web-site in January 2000.¹⁰ This action was motivated by the desire to communicate correct facts of actions

¹⁰ N Vittal, "Public Complaint Mechanism: India" <http://www.cvc.nic.in>.

against public servants and to contradict the general perception of the public that the publicity was only given to cases involving middle or junior level officers. The site displayed the names of union officials of Government of India including IAS & IPS officers. This measure was well received by the people as well as the media. 93% of the people in a poll conducted by The Hindustan Times welcomed the measure. This initiative introduced an element of transparency in departmental operations. A public resentment was expressed about people who were facing inquiries and occupied sensitive positions. This was expected to create a deterrent effect. A poll by The Economic Times confirmed this as 83% respondents voted in favour of the deterrent effect. The Harvard University appreciated the initiative taken by the Chief Vigilance Commissioner and invited him to address the Institute Of International development on December 19, 2000 because for the first time the Internet had been used to fight corruption.

Another benefit, which came to light, was that some of the persons whose names were on the web site said that even though their names were there, they had not even been served with a charge sheet. This highlighted how corruption flourishes through delay in departmental inquiries. It is quite possible that innocent persons may also become victims of vigilance inquiries. If department inquiries are delayed, the results are contradictory in case of honest officials, who become victims of mindless departmental procedure. But for a corrupt official the delay provides a cover of respectability till he is proved guilty. So the Central Vigilance Commission used its web site initiative as a device to issue monthly reminders to expedite the disposal of cases with the intention that within six months all departmental inquiries are completed so that honest persons can get their names cleared and the corrupt punished quickly.

The experience of the Central Vigilance Commission in the web site itself created a confidence in the efficacy of the system. This was followed by continuous reminders to the disciplinary authorities so that action for penalty was taken in cases where guilt has been proved. The statistics give a

positive picture for e.g. the cases of major penalty after inquiry, opening as of November 2000 and February 2001 are as follows:

Table-4

Period	As on 23/11/2000	As on 22/02/2001	Remarks
Less than 1 year	422	408	-14
B/w 1-2 years	264	195	-69
B/w 2-5 years	407	307	-100
More than 5 years	175	156	-19
Total	1268	1066	-202

Source: N Vittal, "Public Complaint Mechanism: India" <http://www.cvc.nic.in>

The figures show that there has been an overall decline in the pending cases. The most creditable decline is visible in cases pending from 2-5 years which is as high as 100 cases.

The Central Vigilance Commission appears to have shaken off its old image and is emerging as a credible organization which people look upon as an agency that can redress their grievances regarding corruption and vigilance matters. This is obvious from the figures of applications received in the last four years 1998-2001.

Table-5

1998	1999	2000	2001
2274	5516	12401	17522

Source: N Vittal, "Initiatives for Tackling Corruption in Public life in India" Paper presented at the International Video link session with British and Indian participants, British Council, New Delhi, 2002

These figures show that with each passing year more and more people thought their effort to complain about corruption worth it and came forward with their complaints.

But this revived confidence of the public would die down if efforts were not made to speedily dispose the case. The Central Vigilance Commission has made efforts to step up the pace of disposal of case. The data has been computerized so that it is possible for people to get the position regarding the pending cases. The data available with the Central Vigilance Commission indicates the position as follows.

Table-6

Year	Cases Received	Cases for advice	Cases disposed
1998	5075	621	5064
1999	6141	1594	5168
2000	6285	1441	6438
2001	6774	1603	6612

Source: N Vittal, "Initiatives for Tackling Corruption in Public life in India" Paper presented at the International Video link session with British and Indian participants, British Council, New Delhi, 2002

Though the pace of disposal of cases has been better when we compare it with the past records however there remains a gap between the

cases received and cases disposed and there is still much scope for improvement.

Three Point Strategy:

The initiatives by the Central Vigilance Commission to create awareness were also a part of its three-point strategy, which includes.

- a) Simplification of rules and procedures
- b) Transparency and empowering the public
- c) Effective punishment

Simplification of Rules and Procedures:

Many a times corruption flourishes because of rules and procedures which breed corruption. One of the powers given to the Central Vigilance Commission under the Department of Personnel's Notification of 4th April 99, under which Central Vigilance Commission is now functioning is exercising the superintendence over the vigilance administration of Government of India organizations. The power of superintendence means that Central Vigilance Commission can give directives, which are expected to be complied with by the organization within the purview of the Central Vigilance Commission. Some of the important directives issued make an interesting reading:¹¹

- i. In government procurements, in order to bring transparency it has been directed that once the financial bids are opened, there will be no negotiations except with the lowest bidder (LI). This has brought in certain degree of cleanliness in the procurement system. As the instructions are widely known, both the suppliers as well as the Government organizations find that this has brought a healthy impact in the procurement system. Pressures on the public servants to favour parties become difficult under the new dispensation.

¹¹ N Vittal, "Initiatives for Tackling Corruption in Public life in India" Paper presented at the International video link session with British and Indian participants, British Council, New Delhi, 2002.

- ii. The Indian banking system witnessed a scam known as the Harshad Mehta Scam in 1992. This was because of the low degree of computerization among others and no computerization in the Public Debt Office (PDO) of the Reserve Bank of India. After the scam, that PDO was computerized. The Central Vigilance Commission therefore directed that all nationalized banks should computerize at least 70% of their business by 1st January 2001. Banks took the issue seriously and today 74% of the banks have computerized the system.
- iii. It is necessary to protect the morale of honest public servants and also protect them from wrongful punishment. In many departments, the honest people become victims of the corrupt bosses. One of the common methods of harassment was generation of anonymous and pseudonymous complaints. Literally, it was blackmail. On 29th. June 1999 the Central Vigilance Commission has issued instruction to totally ignore and avoid taking any action on anonymous / pseudonymous complaints. This acted as a morale booster for the honest public servants.
- iv. In order to further strengthen the honest persons, an order was issued on 18th November 1998 that even juniors can complain against the seniors, expose corruption and act as whistle blowers, and their identities will be protected. Simultaneously, if wrong complaints were made, action would be taken. In order to further strengthen the process of whistle blowing, on the suggestion of the Central Vigilance Commission, the Law Commission has drafted the Public Disclosure Act, which is pending before the government.

Transparency and empowering public

The most important and unprecedented action taken by the Central Vigilance Commission was the web site initiative, which has already been discussed in detail. The second important step by the Central Vigilance Commission was to use web site to warn the departments, which were not taking action even after the inquiries, were over and major penalties recommended. The Central Vigilance Commission also took up the matter with these departments and suggested that if no action was being taken then it would be treated either as inefficient department or even worse as a

department protecting corruption. There is a tendency in certain departments to protect the corrupt public servants a higher level. In order to expose this, the central vigilance officers have been directed to send an advanced report directly even before the papers are submitted to the disciplinary authorities so that if there is any attempt at suppression then this can be effectively tackled.

The element of empowering the public was achieved by displaying a notice board in every office saying that bribe should not be given and if anybody insists on a bribe, complaints can be made to the Central Vigilance Commission. This was followed by the publication of a citizens' guide to fighting corruption. The citizens' guide points out the dangers of corruption and also the four actions which an Indian citizen can use to fight corruption.¹²

- (i) Participate in the Vigilance awareness week, which is being observed from the year 2000 for a week beginning with the birthday of Sardar Vallabh Bhai Patel, the Iron Man of India, 31st October.
- (ii) To bring to the notice of the Central Vigilance Commission's rules, procedures and systems which breed corruption so those directives could given by the Central Vigilance Commission to modify the system. At the national level, the Central Vigilance Commission's jurisdiction does not extend beyond the Government of India but as far as the state governments are concerned the Central Vigilance Commission can take the matter with the chief secretaries of the State Government. The Central Vigilance Commission in these cases may be a post office but an empowered post office.
- (iii) To fight corruption using the Benami Black Money Scheme of the Central Vigilance Commission. By this scheme the Central Vigilance Commission invites freely details/information about

¹² *Ibid.*

benami and black money held by the corrupt public officials or for that matter any taxpayer. These are scrutinized and then sent to the Income tax department or CBI for conducting raids. During the period July 2000, when the scheme was introduced, till the end of January 2002, 4 (CBI 3, Income tax 1) raids have been conducted which have been successful.

- (iv) Secure the help of police or help the department to trap corrupt public servants.

The four agencies which can be used by a citizen are firstly, the Judiciary which can be moved through PIL to issue directives, secondly the Central Vigilance Commission itself thirdly, the media and fourthly, direct action. Direct action can be taken by civil society itself for eg. An NGO called SECMOL in Ladakh has mobilized all the surpanches of Panchayats to shun bribery and refuse to pay it and has been amazingly successful.

Effective Punishment

The Third element of strategy of Central Vigilance Commission to fight corruption in bureaucracy by effective punishment has not been all that successful. Though the Central Vigilance Commission itself has speeded up the disposal of cases, the cases pending with administrative authorities for action on commission's advice are still very large as the figures given below indicate.

Table-7

List A: First Stage Advice Cases for initiation of departmental proceedings

	Number of cases pending implementation of Central Vigilance Commission's above for Major Penalty Proceedings					Number of cases pending implementation of Central Vigilance Commission's Advice for Minor Penalty Proceedings				
	Less than 1	One - two	Two - five	More than 5	Total	Less than	One - two	Two - five	More	Total
All Government										

Department s/organizati ons		years	years	years		1 year	years	year s	than 5 year s	
As on 03.04.2001	760	401	529	328	201 8	343	122	215	242	92
As on 31.12.2001	770	360	364	309	180 3	420	121	133	229	90

List B: Second Stage Advice Cases for imposition of penalty

All Government Department s/organizati ons	Number of cases pending implementation of Central Vigilance Commission's above for Major Penalty					Number of cases pending implementation of Central Vigilance Commission's Advice for Minor Penalty				
	Less than 1	One – two years	Two five years	More than 5 years	Tota l	Less than 1 year	One – two years	Two -five year s	Mor e than 5 year s	Tot al
As on 03.04.2001	455	218	311	148	113 2	121	48	58	48	275
As on 31.12.2001	439	247	173	119	978	165	45	48	37	295

Source: N Vittal, "Initiatives for Tackling Corruption in Public life in India" Paper presented at the International Video link session with British and Indian participants, British Council, New Delhi, 2002.

In order to ensure effective punishment, the Central Vigilance Commission recommended to the law commission that there should be a provision for confiscation of the illegal wealth of the corrupt public servants. Accordingly, the law commission has drafted on 4th Feb, 1999 a law known as the Corrupt Public Servants (Forfeiture of Property) Act. This law, however, is yet to be passed.

The latest initiative taken by the Central Vigilance Commission is to institute an annual system of publication of Probity Perception Index of all the Government of India organizations under the purview of the Central Vigilance Commission. This will consist of 3 elements.¹³

(i) Corruption Intensity Index: This will consist of the details regarding the prosecution launched, the punishment minus major penalty /minor penalty recorded and also the complaints received from the public divided by the number of public servants in the organization.

Prosecution launched + Punishment – Major & Minor Penalties +
Complaints received ÷ No. of public servants in the department.

(ii) Meta Perception Index: All the heads of the organization under the purview of the Central Vigilance Commission have been asked by the Central Vigilance Commission to rate themselves in a scale of 1-10, 1 being the most corrupt and 10 being the most honest. They have also been asked to identify areas of corruption and what is more important indicate what is their plan of action to fight corruption. That way the Meta Perception exercise every year will become an exercise of internal scrutiny and introspection of the government organizations and action focused on areas of corruption and specific steps to remove corruption.

(iii) Field Service through exit polls

The third element of Probity Perception Index would be the field service to be conducted through exit polls on a format which, has been finalized in consultation with the Lal Bahadur Shastri National Academy of

¹³ *Ibid.*

Administration and Transparency International India, and other NGOs who are working in this area. The top 20 in the Corruption Intensity Index of all the organizations and the purview of the Central Vigilance Commission will be selected for the field studies to be conducted by NGOs in a period of 2 months.

Finally the probity perception index would be arrived at by giving 70% weightage to the field study, 20% to the corruption intensity index and 10% to the meta perception.

Appraisal

The Central Vigilance Commission has had an interesting journey from a non-activist advisory body to an activist, action-oriented institution. The new Central Vigilance Commission has no doubt tried to make the most of whatever powers were given to it. It has successfully emerged as an institution which, can freely and fairly examine the vigilance cases. Most of its initiatives have been welcomed by the public and appreciated internationally. But the fact remains that the most important aspect of its three point strategy i.e. effective punishment has not been so successful and the failure of this element can undo what ever has been done by it in the past four years. Though whatever it has been able to achieve is by no means little but its practical effects would be visible only if such sincere efforts are continued over a longer span because corruption in India is highly entrenched. Another major issue is that whatever has been achieved in the past four years is majorly due to the pro-active, sincere and dedicated work of the current Chief Vigilance Commissioner. Mr. N. Vittal whose tenure will be ending in 2002. The sustainability of the efforts of Central Vigilance Commission will largely depend on the successor of Mr. Vittal, otherwise the efforts of Central Vigilance Commission will remain efforts of dedicated and charismatic leader rather than that of a dedicated, positively direction oriented and successful organization.

CHAPTER 4

THE COMPARATIVE PERSPECTIVE

In the previous chapter, I discussed the journey of CVC from 1964-2002. I would like to draw the attention towards the experiences in other countries. While drawing such comparisons one has to be very careful about choosing such countries which are similar to the one under study. The levels of corruption, its entrenchment as well as the colonial past of the Asian countries are quite comparable. In September 1974, the Far East Economic Review featured the cover story, 'Corruption: The Asian Lubricant', which surveyed corruption in 10 Asian countries. The article concluded that:

“If you want to buy a Sherman tank, a Red Cross Blanket, or simply speed up the installation of a telephone, there is probably no easier place in the world in which to do just that than in Asia-if you are willing to part with some cash, that is. With pathetically few exceptions, the countries in this region are so riddled with corruption that the paying of 'tea money' has become almost a way of life”¹.

This proves that most of the Asian countries are very similar to India in this context as after reading this one feels as if the article is describing the situation in India. For the purpose of my comparative analysis I am taking up Singapore and Hong Kong which are perceived to be the least corrupt countries according to the three most popularly used indices CPI, BII and GCRI. The CPI is the Corruption Perception Index, which according to Transparency International is an attempt to assess the level at which corruption is perceived by the people working for multinational firms and institutions as impacting on commercial and social life². The BII is Business

¹ Jon S.T. Quah, "Corruption in Asian Countries: Can it be minimised?" *Public Administrative Review*, November-December 1999, Vol.59, No.6, pp.484.

² Transparency International Newsletter "A briefing on the TI Corruption Perception Index, 1996.

International Index, which ranks countries from 1-10 according to the degree to which business transactions involve corruption or questionable payments.³

The GCRI is Global Competitiveness Report Index which rates the level of corruption on a one to seven scale according to the extent of irregular, additional payments connected with import and export permits, business licenses, exchange controls, tax assessments, police protection or loan application⁴. As shown in table 1 Singapore and Hong Kong emerge out as the cleanest Asian countries.

TABLE 1
PERCEIVED LEVEL OF CORRUPTION IN ASIAN COUNTRIES

Country	BII (1-10 scale)*	CPI97 (1-10 scale)*	GCRI97 (1-7 scale)*
Singapore	1.00	2.34	1.24
Hong Kong	300	3.72	1.52
Japan	2.25	4.43	2.07
Taiwan	4.25	5.98	3.22
Malaysia	5.00	5.99	3.97
South Korea	5.25	6.71	4.34
Thailand	9.50	7.94	5.55
Philippines	6.50	7.95	5.56
People's Republic of China	Na	8.12	4.10
India	5.75	8.25	5.11

³ Shang Jin Wei "Corruption in Asian Economies: Beneficial Grease, Minor Annoyance or Major Obstacles?" Paper presented at the United Nations Development Programs Regional Workshop on Integrity in Governance in Asia, Bangkok, Thailand, 1998, p. 3

⁴ *Ibid.* p. 4.

Indonesia	9.50	8.25	5.56
Pakistan	7.00	8.47	Na
Bangladesh	7.00	9.20	Na

Source: Wei. 1998.5.

*According to Wei the original BII, CPI and GCRI were re-scale so that higher score imply more corruption. Thus, for all three indices a higher score means a higher level of corruption.

Hong Kong's Anti-corruption Efforts

One of the most famous anti-corruption bodies in the world is Hong Kong's Independent Commission Against Corruption. However, before stating the achievements of ICAC, it is imperative to give a background of Hong Kong corruption scenario. Corruption was extremely entrenched and pervasive in Hong Kong in 1960, and early 70's and its citizens had only 3 options- 'getting on the bus' i.e. participating 'running alongside the bus' i.e. non-interference in the system or the least viable option, 'standing in Front of the bus' i.e. resisting corruption. In 1973 there was a much-publicized corruption scandal involving a superintendent of Police, which caused great agitation among the educated and civil-minded citizenry, who started a campaign, which was successful. A commission of inquiry under a high court judge was set up in the same year to look into the cases of corruption. The main recommendation of the commission was to establish an independent agency to deal with corruption. As a result, the Independent Commission Against Corruption (ICAC) was set up in February 1974.

The government took the issue of corruption seriously and played a pro-active role. It realized that effective punishment alone is not a solution. The functioning of the government machinery should also be looked into and the public attitude towards corruption should be changed. So, the law establishing ICAC has three fronts to fight

corruption i.e. investigation, prevention and education. ICAC has three departments to investigate complaints of corruption.⁵

Operations department – to investigate complaints of corruption.

- Corruption prevention department to examine systems in government department and public bodies to identify and reduce opportunities for corruption.
- The community relations department to educate the members of the public on the cost and consequences of corruption and seek their support in the fight against corruption.

The ICAC reports directly to the chief executive. It has adequate and well-paid staff, the majority of which serve on contract basis, which can be renewed by mutual consent. There is prohibition on transfer of ICAC staff to other departments and on their working for senior civil servants of the government of Hong Kong. All this has been done to ensure the independence and high motivation of the staff.

ICAC enjoys adequate powers to deal with corruption, which it derives through three specific laws:

- Prevention of Bribery Ordinance.
- Independent commission against corruption ordinance.
- The corrupt and illegal practices ordinance.

Efficient functioning of the ICAC has been ensured by giving it extensive investigative powers, so much so, that business as well as official corruption falls within its mandate. To check the danger of arbitrariness of its investigative powers a system of checks and balances has been created. The ICAC has prosecution powers. The information it collects is submitted to the secretary of justice who alone can initiate prosecution. The courts in Hong Kong decide on the outcome of the

⁵ S. K. Das, *Public office, private interest bureaucracy and corruption in India* (New Delhi: Oxford University Press, 2001) p.153.

prosecution and they are empowered to look into how the investigation has been conducted by ICAAC.

There are adequate means to keep a tab on the working of ICAC by the public. The legislature monitors its work through a number of advisory committees, which review its working. The members of these committees are appointed by the Chief Executive and are prominent citizens drawn from all sectors of the community. Non-official members chair all the advisory committees. There are 4 advisory committees.

- Advisory committee on corruption.
- The operations review committee.
- The corruption prevention committee.
- The citizens advisory committee on community relations.

The reports of these committees are made public so that the people can monitor and review the work of advisory committees.

Apart from these there is an independent ICAC complaint committee chaired by a nonofficial member. This committee monitors and reviews the handling of complaints against the ICAC officers or the ICAC practices and procedures.

ICAC gets information on corruption through complaints by the public, who may lodge complaints at the report center of ICAC which functions on a 24 hour-basis, on telephone hotlines, through mails, or at any of the eight ICAC regional offices.

WORKING OF ICAC

A complaint, as soon as it comes, is referred to the report center which is a top security area manned 24 hrs by investigators. If the complainant comes in person he is interviewed within a few minutes. The minor cases are sent to a 'quick response' team of investigators, which speedily disposes simple cases.

Every corruption complaint is listed in a morning report, which is studied by the top functionaries in ICAC. If it is decided to investigate, the investigation is done under conditions of great confidentiality. The Prevention of Bribery ordinance makes it an offence for anyone to warn a suspect that he is under investigation. If, in the end, it is found that there is insufficient evidence to convict a prosecution, the case is tabled before the operations review committee which is one of the advisory committees which consists of secretary of justice, commissioner of police, director of administration as well as the commissioner of ICAC and is chaired by a non-official member appointed by the chief executive and other members of the committee are private citizens of civic repute. Only the operation review committee can authorize the termination of an investigation.⁶

The most creditable aspect of ICAC and its efficient working is the utmost transparency and efficiency that it maintains in its functioning. All its activities are well monitored directly or indirectly by the public. Even the sincerity and dedication of the government is worth appreciation. The Government has taken utmost care to make the institutions working fool proof and fiercely independent. But while doing so it has also considered and provided remedies in case of arbitrary functioning of the commission. The statistics of the commission itself speaks for its good and efficient work.

TABLE-2
CORRUPTION COMPLAINTS – ICAC, 1974-1998

Year	Government department	Public body	Private sector	Total
1974	416	28	2745	3189
1975	401	117	2661	3179
1976	474	76	1883	2433
1977	383	46	1271	1700
1978	305	42	887	1234
1979	402	81	1182	1665

⁶ *Ibid.*, p.154.

1980	534	79	1159	1772
1981	698	92	1554	2344
1982	840	88	1421	2349
1983	881	103	1542	2526
1984	889	70	1406	2365
1985	1009	55	1486	2550
1986	1060	150	1364	2574
1987	1068	71	1160	2299
1988	1046	54	1062	2162
1989	1062	64	1290	2388
1990	1034	69	1196	2390
1991	978	64	1125	2186
1992	1032	59	1144	2257
1993	1166	113	1798	3276
1994	1381	101	1830	3312
1995	1248	109	1630	2987
1996	1304	131	1651	3086
1997	1288	198	1571	3057
1998	1456	239	1860	3555

Source: The ICAC, Hong Kong

Table-2 gives the figures of the complaints of corruption received by the commission from the public since its inception in 1974. It is interesting to see that there has been a steady increase in the number of complaints in all the categories but there has been a strikingly significant increase since 1993. During the six-year period about 17,000 people have made corruption complaints to the ICAC. It is not just the number of complaints, which prove its credibility. The fact that nearly 70% of the people who reported corruption to ICAC were sufficiently confident of the integrity ICAC to identify themselves. This percentage was as low as 40% at the time of its inception. This is the real achievement of ICAC.

The community of Hong Kong is keen to report corrupt practices is evident by the continuation of the high level of complaints being received by the commission till 1999 as shown in the Table 3.

TABLE-3

CORRUPTION COMPLAINTS-- ICAC, 199

Month	Government department	Public bodies	Private sector	Total
January	96	14	139	249
February	97	7	101	205
March	115	31	133	279
April	103	21	149	273
May	126	23	177	326
June	114	17	178	309
July	133	11	166	310

Source: The ICAC, Hong Kong

The task of ICAC had been very daunting as it had to shatter the public conception that corruption is inevitable and any effort to fight it is futile. Well-orchestrated public relations campaigns, vigorous public education campaigns and innovative strategies to combat corruption used by ICAC have successfully shattered this conception.

ANTI-CORRUPTION EFFORTS OF SINGAPORE

Singapore, which is perceived to be the least corrupt country in Asia today, was also a victim of rampant corruption during the British colonial period. Corruption was a way of life there like any other Asian country. The extent of corruption can be well imagined as an analysis of the Strait Times from 1845 to 1921 shows that 172 cases of police corruption were reported during this period. Corruption was also widespread during the Japanese Occupation (1942-1945) as rampant inflation made it difficult for the civil servants to live on their low salaries. The situation deteriorated

during the post war period and the 1950 annual report of the commissioner of police revealed that corruption was rampant in government departments in Singapore⁷.

The Peoples Action Party (PAP) came to power in June 1959. The major hurdle in their plan for a prosperous and developed Singapore was corruption. This fact was soon realized that corruption had to be curbed to ensure that the Singapore civil services attained the country's developmental goals. To curb corruption the PAP government adopted two fold goals

- to minimize corruption.
- to change the public perception about corruption from a low risk-high award activity to a low award-high risk activity.

In 1960 a comprehensive anti-corruption strategy was introduced with the enactment of the 'Prevention of Corruption Act' and the strengthening of the Corrupt Practices Investigation Bureau (CPIB). As corruption is caused by both incentives and opportunities to be corrupt, the new comprehensive strategy was based on the "logic of corruption control" as "attempts to eradicate corruption must be designed to minimize or remove the conditions of both the incentives and opportunities that make individual corrupt behavior irresistible".

Singapore in 1960s was a poor country with a per capita gross national product of US\$1,330 or US \$ 443. So it was not possible for the PAP government to combat corruption by raising the salaries of its civil servants. Hence the only alternative with it was to strengthen the existing legislation to reduce the opportunity for corruption and to increase the penalty for corrupt- behavior. There were two existing legislation. Corruption was first made illegal in 1871 with the introduction of the Penal code of the Straits Settlements. The first specific anti-corruption law was introduced on Dec. 10, 1939 when the Prevention of Corruption Ordinance (POCO) was enacted. In 1946, the POCO was amended to increase the penalty for corrupt offences from two to three years and /or a fine of S\$ 10,000 and to enable the policy to arrest corrupt individuals without warrants.⁸

⁷ *Ibid.*

⁸ *Ibid.*

The PAP government to meet its objectives enacted Prevention Of Corruption Act (POCA) on June 17, 1960, which included five important features to eliminate POCO's deficiency and to empower CPIB to perform its duties. The POCA's scope was increased to 32 sections, in contrast to the POCO's 12 sections⁹.

- (ii) Corruption was explicitly defined in terms of the various forms of 'gratification' in section 2, which also identified for the first time the CPIB and its director.
- (iii) To enhance the POCA's deterrent effect, the penalty for the corruption was increased to imprisonment for five years and/or of US \$ 10,000 in 1989.
- (iv) A person found guilty of accepting an illegal gratification would be fined the amount of bribe, plus any other punishment imposed by the court (section 13).
- (v) Final and most important feature if the POCA was that it gave the CPIB more powers and a new lease of life. It provided CPIB officers with powers of arrest and search of arrested persons and it empowered the public prosecutor to authorize the CPIBs director and senior staff to investigate any bank account, share account or purchase account of anyone suspected of having committed an offense against the POC. Section B enabled the CPIB officers to inspect a civil servant's banker's book and those of his wife, children or agent, if necessary.

The PAP government did not slack its efforts and to ensure POCA's effectiveness and amended it as and when necessary and introduced new legislation to deal with unforeseen problems. In 1963 the POCA was amended to empower CPIB officers to require the attendance of witnesses and to question them. This amendment enabled the CPIB officers to obtain the cooperation of witnesses to help them in their investigations. In 1966, thus important amendments were introduced to further strengthen the POCA.¹⁰

- (i) Section 28, stated that a person could be found guilty of corruption even if he did not actually receive bribe, as the intention on his part to commit the offense constituted sufficient grounds for his conviction.

⁹ *Ibid.*

¹⁰ *Ibid.*

- (ii) Section 35 was directed at those Singaporeans working for their government in embassies and other government agencies abroad. Singapore citizens could be prosecuted for corrupt offences committed outside Singapore and would be dealt with as if such offences had occurred within the country.

In 1981, the POCA was amended for the third time to increase its deterrent effect by requiring those convicted for corruption to repay the money they received in addition to facing the usual court sentence and those who could not make full restitution would be given heavier court sentences.

All these efforts of PAP increased the risk of corruption so much so that in 14 Dec. 1986, the then minister for national development, The Cheang Wan committed suicide, 12 days after he was interrogated for 16 hrs by two senior CPIB officials about two allegations of corruption against him by a building contractor. They was accused of accepting two Bribes amounting to US \$ 1 million in 1981 and 82 from two developers to enable one of them to retain land which had been acquired by the government and to assist the other developer in purchasing state land for private development. This incidence was followed by of the commission of inquiry, which consequently led to the enactment of the Corruption (Confiscation of Benefits) Act 1989 on March 3, 1989. This act was concerned with the confiscation of benefits derived from corruption. It stipulated that if a defendant is deceased, the court may issue a confiscation order against his estate.¹¹

The CPIB is the anti-corruption agency responsible for enforcing the POCA's provision. It performs three functions namely

- (i) To receive and investigate complaints concerning corruption in the public and private sectors.
- (ii) To investigate malpractice's and misconduct by public officers.
- (iii) To examine the practices and procedures in the public service to minimize opportunities for corruption.

¹¹ *Ibid.*

The PAP government was able to implement the second prong of its comprehensive anti-corruption strategy in the reduction of incentives for corruption by improving the salaries and working conditions in the civil services, only in 1980s, long after it had achieved economic growth. The improvement of wages began in March 1972, when all civil servants were given a 13 month non-personable allowances comparable to the bonus in the private sector. This allowance was aimed more at improving the working conditions in the civil services when compared to private sector rather than curbing corruption. This was also needed to stop the 'brain drain' from government sector to private sector.

Later the salaries of civil servants in Singapore was upwardly revised in 1973, 1979, 1982, 1989 and 1994. Consequently it is probably the highest paid civil service of the world.

Singapore's experience demonstrates that it is possible to minimize corruption if there is strong political will. Conversely, if such political will is lacking the situation becomes hopeless as political leaders, senior civil servants or military officers will merely pay lip service to implementing anti-corruption measures. On the other hand, it might be difficult for other countries to replicate or transplant Singapore's experience in curbing corruption because of two reasons.

- (i) Singapore's unique policy context differs from that of the other countries.
- (ii) The prohibitive economic and political costs of paying political leaders and civil servants high salaries and reducing the opportunities for corruption.

APPRAISAL

After studying the anti-corruption agencies of Singapore & Hong Kong which are the cleanest countries of Asia, we get a fair idea of where our own anti corruption agency i.e. Central Vigilance Commission is lacking. The anti corruption measures have a triangular structure with three important angles- the government, the agency and the people. If we analyse Indian efforts to eradicate corruption, we find that on all the three fronts we have failed miserably.

The government

As an institution responsible for maintaining order and regulating lives of people under its purview according to laws and most important working for the welfare of the people, it becomes imperative for any government to keep a check on corruption try to eradicate it. This is because corruption is a phenomenon, which negatively effects all the 3 above-mentioned duties of the government. The Indian government has not done much to check corruption right from beginning the constitution did not mention any agency, which could be held responsible for vigilance. This deficiency was deemed to be cured by creating an administrative vigilance division in the Ministry of Home affairs. Administrative Vigilance division was a taken institution which could not do anything effective to check corruption. Then another attempt with made to better the existing vigilance agency by creating Central Vigilance which was supposed to be based on the recommendations of the Santhanam committee (as seen in chapter 2) but fell far short of the recommendations and wasn't even half as powerful as suggested by the committee. Later, year after year Bills were introduced in the Parliament but till date the Government has not been able to put a law in place to grant Central Vigilance Commission statutory status. All these instances of avoidance prove how sincere our governments over the years have been in putting a strong vigilance institution in place. The government is not only averting the issue, it is creating difficulties in the proper functioning of the Central Vigilance Commission by encouraging departments and ministries to delay implementation of the Central Vigilance Commission can enforce its decisions, the silence of Government on the issue of non-acceptance of commission advice has emboldened the ministries/departments. Not only the Central Vigilance Commission bill but many other legislation like corrupt public servants (Forfeiture of Property) Act etc which will help to check corrupt have also not been passed by the Government.

The most significant factor behind the success stories of Hong Kong and Singapore is that the government in both the countries took a sincere pledge to eradicate corruption. India when compare to Singapore stands out in stark contrast as the efforts of PAP Government of were on its own imitative and not under any external pressure. While Singapore, went all out to empower the institution the Indian Government remained shy of delegating sources to Central Vigilance Commission.

For any organization, it is not the technical nitty gritty that makes it a success or the failure. The success or failure is determined by the fact whether it has been conferred adequate powers to meet its job requirements and whether adequate checks and balances and transparency of procedure is in place to control any arbitrary exercise of power. In both the successful cases the institutions were quite powerful. In Hong Kong the ICAC was vested with great powers but an intelligent system of checks and balances was created and the most significant thing was the transparency and openness of the system where people could check its effectiveness impartiality and neutrality for themselves. In Singapore the legislation were made so powerful and their implementation was done with unprecedented sincerity, which made it a success. Hong Kong's way of curbing corruption by involving people in the programs & making it a people's movement is praise worthy. But such means are in a danger of not being a success if transplanted in other environs, Similarly it is not possible, as mentioned earlier to have a transplant of the Singapore's experience.

The most significant factor, which is common to both these countries, is the delegation of adequate powers. The basic factor of CVC not being a success is that the Indian government has always belied the hopes of the people by not delegating enough powers to CVC and not lending it governmental support. Moreover the parliamentary committee's suggestions point out to the fact that the government is scared of creating a powerful agency and is possessive of its powers and is not ready to delegate them to any agency which has to be autonomous. It is merely due to lack of governmental support that the departments get the courage to disregard the CVC's advice & are easily able to cause delay in implementing penalties.

The Agency

There is no denying the fact that it remains ineffective due to the lack of adequate powers. But apart from this there are various draw backs within the agency itself. It has been created in 1962 but the general awareness of its existence remained very poor and Central Vigilance Commission itself did little to cure it. As an agency it was satisfied with its existence in oblivion. It was only in 1998 through the Vineet Narain Case Verdict, that it shot to prominence and started attracting attention. Though the agency has made efforts to make itself know yet the level of general awareness about it remains poor. In this case the efforts of ICAC, Hong Kong are

praiseworthy. It has adopted a multi pronged approach to educate people about demerits of corruption instill high moral values, consolidating community support through its 'program plan approach'. Though the Central Vigilance Commission has also made efforts to make itself popular and some of its initiatives were commendable, a lot still remains to be done.

The second major drawback of the agency is that people don't have faith in its efficacy. This image of the Central Vigilance Commission has been cultivated due to the corruption at lower levels in the agency itself. The working of the officials of the agency is not transparent enough to prove their integrity beyond doubt. There are no checks on the officials of the agency itself, the fact remains that in case the Central Vigilance Officer himself is corrupt, many people wouldn't take the trouble of going to the higher authority and resign to the fact that the whole system is corrupt and nothing can be done about it. The ICAC, Hong Kong has a very transparent and powerful system of checks and balances which proves beyond doubt the integrity of the officials of ICAC itself and strengthens the faith of people in its efficacy.

Another factor is that instead of winning over the faith of the people the Central Vigilance Commission is demanding their trust. By not accepting anonymous complaints, a major drawback would be that it might scare the already harassed victim from approaching the Central Vigilance Commission with complaints, even the ICAC started with accepting complaints with the option was keeping the names confidential. As the people's faith in the efficiency of ICAC increased, they came forward to make complaints and identified themselves openly. This also acted as an indicator of people's faith in the institution. The Central Vigilance Commission thus has not been able to meet the requirements of its job and still has a long way to go.

The people

Out of the four elements of the state, people are the strongest. It is the people's power that makes or breaks the governments, its policies, its economy, its strengths or its weaknesses. In the triangular failure the most tragic is the failure of the people. It is heart rending that we have failed ourselves. We have failed against corruption and accepted our defeat, we have accepted the predominance of corruption in our daily lives and have adjusted to it. We have accepted our defeat against governments who

have belied our hopes time and again and failed to put a strong and powerful vigilance agency in place. We have accepted the slavery of corruption. In such a dark scenario there is a flickering ray of hope because of stray incidences of people mobilizing themselves and fighting for their right a right to a clear society. The movement in Rajasthan and Andhra Pradesh for more transparency in administrative procedure is indirectly helping in fighting corruption a beginning of striking at corruption has also been made by NGO- SECMOL in Ladakh which is mobilizing people in its anti corruption movement. An important landmark in its struggle was when the sarpanchas of the panchayats of the district submitted a memorandum, an important point of which was their vow of neither give nor take the bribe money. The movement is slowly but steadily gaining ground and people are coming in large numbers to make this movement a success. The only way in which Central Vigilance Commission can be made powerful now is through a people's movement. The only hope now is spreading of such movements throughout the country and a conscious resolution among the masses that they would eradicate corruption even if the government were unable to do so. Such movements alone will be able to check such organized, monopolistic & pervasive corruption as is such seen India.

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