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## PERILS OF CORRUPTION IN THE PRESENT SCENARIO

- N. Vittal

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I am glad that the HAL had decided to institute a series of Lectures to sensitise the Management of the HAL on the issue of corruption.

Sensitisation is a key word. After all, any living organism must be sensitive to its environment. If it is not sensitive to the environment and fails to notice the changes that are taking place, the very existence of that organism may be threatened. Many may be aware of the so called boiled frog syndrome. I understand that if a frog is dropped in a pan of hot water, it will immediately jump out and save itself, because the frogs are not comfortable in a hot environment. But, if the frog is placed in a pan of cold water, which is gradually heated, the frog does not become sensitive to the gradually increasing heat and could be boiled to death. Similarly, if an organisation is not aware of the changes that are taking place in its environment and adjust itself it may cease to exist.

In the context of a nation, if corruption is uncontrolled, it will lead to its destruction. In this exercise, we are exploring the perils of corruption in the present scenario of our country. A quick analysis will show, how every aspect of governance is adversely affected by corruption and corruption can lead to the destruction of various organs of governance leading ultimately to disaster.

Being sensitive means that one notices various signals of danger and initiates corrective action to protect oneself. In this connection, it is worth recalling the recent riots in London. It took the British government by surprise. There were press reports that the Prime Minister David Cameron was going to get the advice of one William Bratten. He came into prominence when as the chief of New York police department [NYPD] he was able to implement remarkably and effectively the policy of zero tolerance of crime articulated by Rudi Giuliani, the Mayor of New York. The traditional strategy for handling crime was to go by what in material management is known as the ABC analysis. One should focus effort and resources on the larger crimes and not waste time on petty or small crimes. This is the way the resources available will become most productive. William Bratten's contribution was to come up with the certain counter intuitive insight which reflected reality. This philosophy has also been called as the theory of the broken window. According to this theory, one need not concentrate on large crimes, but one should be very quick in taking punitive action against minor infractions of the law. For example, if a stone is thrown on a window and it is broken and if the glass is not replaced, the passers by may have a look at the building and the

broken window and take it for granted that perhaps nobody will object if more stones are thrown and more windows broken, Very soon the entire building may become as if had been hit by a bomb. Bratten, therefore, focused on minor infractions like graffiti in the suburban trains to New York and was able to check dramatically greater crimes taking place. In the streets, he focused on so called squeegee men who used to volunteer to clean the windscreens of the cars which are struck in traffic jam and then loot the passengers. This counter intuitive theory of broken window helped Bratten to check crime in New York and later on in Los Angeles.

Corruption has become the most prominent subject commanding the headlines of the media in the present scenario ,especially from the last year. . What is striking about the corruption scandals dominating the headlines today is the fact that they cover practically every aspect of governance and public life in ourcountry and the scale of corruption is mind boggling. It is true that we have had right from the early days of independence corruption scandals bursting out from time to time. But they were of a much smaller dimension and mostly related to commercial purchases made by the government in different sectors .In the days of the licencing raj1947 to 1991 the scandals relat ed generally to the issue of licences issued in a dubious manner.

But what is striking about the corruption scandals from 2010 is the fact that they are of extremely large proportions. The mother of all corruptions cases is the 2G scam estimated to be of the order of Rs1.76 lakh crores.This is relating to the allotment of the radio frequency spectrum required by the second generation mobile communication operators. Radio frequencies are a limited natural resource and of strategically important . these were allotted in the most colourable fashion. Licences for use of spectrum were allotted in 2008 at prices fixed in 2001 completely ignoring the fact that there has been a quantum jump in the telephone density one in hundred in 1994 to 80 in 2010. Consequently the market prices of the spectrum was much more than what the government got and the loss to the public chequer has been estimated as Rs.1.76 lakhs crores. The Bofors scandal which led to the downfall of Rajiv Gandhi in the 1980s is almost insignificant in size at Rs.85 crores compared to the 2G Scam.

Almost rivalling the 2G scam has been the Common Wealth Games scam which whose organising committee was lead by Suresh Kalmadi, another political leader who ran the whole operation as his private affair and the loss is estimated to be 70000 crores rupees.

The corruption scandals were not restricted to sports or government policy making and the corporate sector. 2G scam inter alia also got in to the headlines, the Niira Radia tapes. The lobbyist Niira Radia operating for the two of the biggest corporate houses in India, the Tatas and the Reliance

was found campaigning for getting the portfolio of telecommunication to the now notorious minister A. Raja.

A collateral issue which damaged the reputation of the media was the involvement of some of the influential media personalities, like popular TV anchor Barka Dutt of NDTV and Vir Sangvi, a well known and respected columnist.

The most serious aspect of the corruption scandals in the current scenario is the extent of corruption in sectors hitherto considered to be relatively immune from corruption. The most critical in my view is the Adarsh scam, which involved defence personnel at the highest levels like the Generals and Admirals. Even more damaging and shocking has been the corruption in the highest form of judiciary which has been revealed. The former Chief Justice of India, on retirement became the Chairman of the National Human Rights Commission. Soon allegations emerged in the media that his relatives benefited financially using his powerful position during his tenure. In spite of the advice given by a former respected Supreme Court judge, he has not so far stepped down as the Chairman of NHRC.

Judiciary is the ultimate instrument for interpreting the law and ensuring that the rule of law prevails. If the judiciary itself is found to be corrupt, as the Bible says, 'if the salt loses its saltiness, from where shall it be salted'. The case of the Chief Justice was not alone. Another Chief Justice of the Karnataka High Court was found to be corrupt and a land grabber. He is facing serious action which may lead to impeachment. Simultaneously, another judge of the Calcutta High Court is facing impeachment. Corruption in the judiciary has become such a large issue that an affidavit has been filed in a case in Supreme Court, where it is alleged that out of the last 16 Chief Justices of India, 8 have been corrupt, 6 not corrupt and about the remaining 2, the jury is out.

Two facts stand out from even a casual look at the cluster of corruption scandals that have been dominating the news in the current scenario. The first is that massive corruption seems to be very prevalent and common practically in every sector of public life today, ranging from politics, bureaucracy, corporate sector, media, defence forces and even the judiciary. The second danger is that the corrupt behaviour seems to have become a norm rather than an exception. One great cause of concern is that the corrupt people seem to get away literally with murder and escape punishment. The unprecedented popular response to Anna Hazare's campaign against corruption and the Jan Lokpal bill reflects the pent up anger and frustration of people across the entire population of our country.

In the ultimate analysis, what are the perils of corruption in the current scenario?

We are a democracy . We have a constitution where the whole structure for governance has been articulated. The elected representatives form the legislature and the legislature makes the law. The judiciary interprets the law and the executive , consisting of the permanent bureaucracy and the council of ministers implements the law. In addition, for a real democracy a free media is necessary. Ultimately as the power is with the people, it is the citizens and among them the activists and the Non government organisations and those generally known as the civil society organisations who have a role to play and ensure that they provide the necessary checks and balances to see that the governance of the country is done properly and effectively.

Before proceeding further, it is worthwhile to be clear about what we mean by good governance. As I see it, good governance means that the following elements must exist:

1. There must be rule of law, so that all are treated equally;
2. There should be minimum corruption. Because, corruption by its very nature, distorts the interpretation and implementation of the law
3. There must be opportunity provided for every citizen to raise to his full human potential
4. There should be maximum total factor productivity . There should be minimum waste of resources of any type, human ,physical and financial .

Corruption means lack of integrity. It could be financial integrity, intellectual integrity or moral integrity. Though by and large, when we discuss corruption, we talk only in terms of financial integrity the other two are equally dangerous. The 2G scam and other scams have revealed, that more important than even financial integrity is the requirement for the intellectual integrity. As the 2G scam unfolds we find many key persons in the policy making level or its implementation have been intellectually dishonest and therefore corrupt This lack of intellectual integrity ,especially the executive , encourages the corrupt elements in the political leadership to thrive and brazenly loot public funds.

The perils of corruption as witnessed in the various scams in recent times are many. The most important peril is the wholesale destruction of institutions and their credibility .This is the path leading to a vicious cycle leading to anarchy. What distinguishes a well governed society from anarchy where the law of the jungle prevails is the rule of law. Corruption directly is against the rule of law .It erodes the credibility of the institution .We witnessed this dramatically in the second fast of Anna Hazare as it progressed from 16<sup>th</sup> August 2011 onwards so far as political leadership and even parliament were concerned..This lack of credibility renders any institution totally ineffective .To use a medical analogy, this leads to a failure of the organs of governance. What we have seen in the

present scenario is the multiple organ failure of governance. The corruption in judiciary is therefore, the most perilous form of corruption because it is the judiciary which we look for the final word so far the interpretation of law is concerned.

At the same time, the silver lining on the horizon even in the current scenario is the fact that an outstanding and honest judge like Justice Kapadia as the Chief Justice has restored the confidence of the thinking patriots in the country in the judiciary. But for the monitoring of the various scams directly by the supreme court itself supervising the investigations by the CBI, we would not have reached a situation today where many VIPs and ex-ministers are locked in Tihar Jail and elsewhere. The developments in our country in the present scenario, therefore, provide an excellent opportunity to study the perils of corruption and also think of strategies by which we can free ourselves from the corruption trap..

The second major peril of corruption is failure of the total erosion of credibility and legitimacy of the state and its organisations. Out of the 600 plus districts in India today, more than 200 are infested with naxalite violence. The naxalites are totally opposed to the democratic form of governance and have declared open war against the government. We see from time to time very shocking cases of how entire battalions of the CRPF and other state security forces have been ambushed and killed. The naxalites are mostly operating in forest areas populated by the tribals. These happen to be some of the least developed parts of the country. It is an irony that there was a school of thought some time back that we should preserve the tribal culture in its pristine form and as a result, there are areas where the tribals were allowed to continue their way of life. They were thus cut off from the main stream of national progress and modern development. Today, it is this very lack of modern development which has provided to the naxalites a safe sanctuary and a *raison d'être*. The lack of development itself has become the argument to motivate the tribals to take to arms and fight the security forces of the state. The long term solution is ultimately to ensure that the benefits of the government schemes of development reach the remotest corners of the country and the *raison d'être* for naxalism is eliminated.

That brings us to another peril of corruption. Corruption is anti poor. We have a substantial percentage of people below poverty line in our country. It is amusing to see the wide ranging estimates about people below the poverty lines by different very learned agencies like the Planning Commission, Sengupta Committee Report, National sample Survey and so on. Anywhere from 25 to 70 percent of our population is rated to be poor. The peril of corruption is that as Rajiv Gandhi pointed out, from every rupee which the government with all good intentions earmarks for the welfare of the poor, only 15 paise reaches the beneficiary, 85 paise is mostly wasted or lost in

corruption. We can, therefore, see how corruption has eroded the effectiveness of anti poverty programs and thus provided an excellent opportunity for terrorism and militancy to grow. In fact, in north eastern states, terrorism is sustained because the development benefits from the huge resources earmarked by the government of India are not reaching the beneficiaries. The same is the case in J&K.. Corruption in the state machinery itself leads to a loss of faith in the state and rebels and terrorists gain the support and credibility of the people..

There is a fourth peril from corruption. This is the issue relating to economic development. We have seen how corruption can suck away resources identified for anti poverty program. When it comes to even infrastructure projects or any large projects undertaken by the government for economic development, corruption erodes its immediate impact. One can easily say that every case of time overrun or cost overrun in our country is an index of the extent of corruption in implementing the project. Corruption in implementation of projects leads to discouragement of good international viable parties from participating in the development programs and the country therefore loses in many ways. The quality of work done is poor .The time and cost over run in projects delay the secondary and tertiary benefits that would flow from implementation of projects .Delay means that the country loses the benefits of economic progress like employment growth and prosperity.

. In fact, there is a direct correlation between the confidence of the investor in a country where the laws are implemented fairly and a country which is corrupt. Years back, in 1998 the UNDP estimated that if India's corruption level comes down to the level of Scandinavian countries like Denmark,Swedenand Norway the level foreign direct investment will increase by 12 ½ %. The same fact has been reiterated by subsequent studies of the Punjab, Haryana, Delhi Chamber of Commerce instituted in 2001 .The PHD atudy shows that bringing down the corruption level by one standard deviationwill lead to a increase of three times so far as investment in industry is concerned.

The damage caused for the economic development in the country and the loss of the economic potential apart from employment opportunities is obvious. We are proud of claiming that India is country where a substantial percentage of population is below the age of 35 .This so called demographic dividend of the youthful population is supposed to be enjoyed by China and India only. Between China and India, India is supposed to be better because China 's one child policy may lead to a situation where it may soon face the problem of greying population. The idea of India having a demographic advantage of youth is all justified only if the productive employment opportunity could be provided to the them. Corruption eats away these opportunities. We have seen how corruption is anti economic development and can discourage foreign direct investment coming in to the

country. If productive employment could not be provided to the youth, they are likely to become a danger to the society. Demographic dividend may become a demographic disaster, if corruption is not controlled and productive employment opportunities are not created in adequate numbers for the increasing population of the youth.

One more peril of corruption is to national security arising out of demoralisation of the armed forces. If the corruption cases especially at the higher levels of the defence services like the Adarsh scam comes to public knowledge, how will the Jawans be motivated to give up their life for fighting for the country? If they know that in the procurement of equipments which they use in war that tremendous corruption is involved, how will the Jawan have any pride in his profession? How will he be motivated to make the ultimate sacrifice of his life for the country if the equipments are third rate? Corruption in defence services, like corruption in judiciary affects national security a very sensitive and vital part of governance, The harm that corruption can cause to country's security and orderly governance is enormous.

Eternal vigilance is the price of liberty. If we have to check corruption, we have to be sensitive to the perils of corruption so that at the first signals of corruption taking place, corrective action to be taken and greater perils avoided.

The continuous explosions and exposures of corruption scandals especially from 2010 is not the only part of the present scenario. Equally important and encouraging are developments in this period in terms of activism of the civil society organisations. The civil society activism lead by Anna Hazare who undertook a fast on 5<sup>th</sup> April 2011 provided a channel of expression for the boiling anger of the common citizen at the widespread corruption in our public life. The politician is held to be the main villain in this evil. After all, every scam in recent times has had a political connection.

What is galling for the millions of people, in our country is the harsh reality that for punishing the politicians by investigating charges and getting them convicted in the courts of law, there is no special or separate anti corruption agency. When Anna Hazare and his group invoked the 42 year old concept of the Lok Palit invoked tremendous and nationwide response. It may be recalled that following the Mundra Scam in the late 50s and subsequent developments the Santhanam Committee was appointed to make recommendations for tackling corruption not only at the level of permanent bureaucracy, but also at the political level. So far as the bureaucrats are concerned, on the basis of the recommendation of the Santhanam Committee, the Central Vigilance Commission was formed in 1964. But in the case of politicians, the Lok Pal has not been formed even though 8 times, the Bill was introduced in the Parliament in different stages. But focusing on the single point

demand for Lok Pal, Anna Hazare was able to provide an outlet for the accumulated important anger of the citizens, especially the middle class which is the key sector in formulating policy and influencing opinion was provoked. They were kept informed by the electronic and the print media which went on giving one horrifying detail about a corruption scam after another. This generated a lot of momentum. The followers of Anna Hazare who call themselves 'India against corruption' also used intelligently modern communication facilities of internet and social communication network like the Facebook to mobilise support worldwide. The government really was taken by surprise and have to compromise on setting up a joint drafting committee for the Lok Pal. But the views of the civil society and the government were so poles apart, that no common ground could be found. This struggle is still continuing.

The Anna Hazare movement had one healthy impact. It has made the political class realise that there is a limit to the patience of the people and the anger of the citizen will find an outlet in supporting leaders like Anna Hazare. During this period we have also had elections in five major states results of which show that the parties which were considered to be corrupt have been virtually thrown out of office and have been a landslide to parties who are opposed to be corrupt ruling party.

The question therefore is, how can we initiate action to ensure that the perils of corruption are avoided? How do we move towards a virtuous cycle of good governance from the current vicious cycle of corruption in which the corrupt neta, babu, lala, jhola and dada play a significant role?

In this context, a breakthrough in the legal concept about ensuring the right people occupy the right positions of authority have been provided by Chief Justice Kapadia in his judgement in the case of selection of Mr. P.J. Thomas as CVC.

One reason why corruption flourishes all around is that in a democracy like ours ultimately the politicians wield maximum power and influence. They are therefore able to influence appointments in public service or government posts at every stage, so that the persons appointed work in collusion with the politicians or at least cooperate. This practice was carried to an extreme when Mr. P.J. Thomas who was listed as accused number 8 in a corruption case involving import of palmolein in 1993 in Kerala. The general legal principle invoked by clever corrupt public servants and their cleverer lawyers is that everybody is innocent till proved guilty in a court of law. On this principle, perhaps, the selection of Mr. P.J. Thomas as CVC was pushed through by the Prime Minister and the Home Minister against the explicit written objection of the leader of the opposition in the Lok Sabha.



But the Supreme Court ruled that apart from the individual integrity of the person concerned, we should also look at what is called 'institutional integrity'.

This new concept of institutional integrity gives us a hope that we may be able to design our system and bring modifications in such a way that only right persons come to occupy the right key posts. Based on the Kapadia judgement, I would suggest that the Chief Election Commissioner can declare that as the Legislature is the agency for drafting the laws, law breakers and potential law breakers can not become the law makers of the country. By invoking the principle of the integrity of the institution, and the legislature as an institution to make laws for the good governance of the country, the Election Commissioner can debar or prohibit the poll candidates against whom criminal charges have been framed in any court of law from contesting elections till they are acquitted by the court. By this one stroke, the criminalisation of politics can be stopped. Let us not forget that today 17% of the MPs face criminal charges in courts.

The next requirement is to see that every post is occupied by the right person. For this, I would suggest that we should invoke what I would call the 2T formula.

The first T is transparency so far as qualification and eligibility are concerned.

The second T represents TINA – There Is No Alternative. All procedures designed for selections must have the TINA principle so that at the end of the exercise, there is no alternative but to select the right person.

Such a situation, thankfully has been created so far as the post of CVC is concerned. Perhaps, this is a unique case in the whole government of India. Thanks to the Supreme Court judgement of chief Justice Verma and the recent judgement of chief Justice Kapadia, only persons who have an excellent track record can be considered for the post of CVC. The selection has to be made by the high powered committee consisting of the Prime Minister, Home Minister and the Leader of the opposition. This will ensure that the person selected is not only competent but conceived to be politically neutral. Thirdly, once a person becomes CVC, he is permanently debarred from holding any office of profit under central or state government. He is also restricted to one term and can not wangle a second term. In other words, the person selected must be not only competent, but also seen to be politically neutral, and effectively debarred from wangling for an extension of the term or a post retirement sinecure. These were considered as adequate.

The fact that a person like P.J. Thomas was considered and appointed for the post CVC which was promptly challenged in the supreme court, led to Justice Kapadia articulating the key principle of integrity of the institution. The net result is that a person selected as CVC today is expected to

be not only competent, politically neutral ,effectively debarred from wangling a post retirement sinecure but will also have impeccable integrity. Otherwise it will go against the principle of the integrity of the institution of the CVC. This is indeed a sure fire failsafe formula to ensure it is square pegs which are selected for square holes and not round pegs which is very common today in appointments influenced by extraneous factors like political prejudice nepotism, casteism etc.

The most important challenge before us is, can we inject this 2T formula in selection in every key post in the government ? Then we can be sure that at every stage of governance, there will be right people with right competence and attitude and especially integrity. In one stroke, this will cleanse the entire system and the perils of corruption would have been tackled effectively.

Unfortunately, this will take a long time. Nevertheless, we can begin with the key posts like the CVC, Election Commissioner, Comptroller and Auditor General of India.

So far as judiciary is concerned, judiciary itself is under honest judges like Justice Kapadia can look into the matter and devise systems so that the selections are not subjected to political influence.

Politicians today use two weapons to make the bureaucracy spineless. The first is the weapon of transfer and the second it suspension. The transfer weapon should be blunted by providing fixed tenures for most of the key posts, so that politicians are not able to transfer people at their whims and fancies. Secondly, the suspension weapon also should be blunted with the condition that in the case corruption, no suspension should be made unless a reference is made to the CVC or the equivalent vigilance authority at the state level ,before action is taken,Within 48 hours the vigilance authorities must give the clearance. Without the clearance of the vigilance authorities no suspension should take place.

This will go a long way in creating an environment where , the entire system operates on a type of auto pilot towards good governance. Because, only the right people will be selected and they would be assured of tenures , they can deliver the goods . The key posts like CEC, members of the EC and CAG will also manned by people who cannot wangle for post retirement sinecures if their onditions of appointment are brought on par with the CVC. If the judiciary also Cleans up its operations on the lines indicated above, we would have moved to a situation where the good governance of the country can be assured and India can be saved from the perils of corruption.

N.VITTAL