

Strengthening Institutional Mechanism to ensure Ethical and Moral Values in Governance : The Road Ahead

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Governance is a dynamic process which needs to be strengthened by the framework envisaged in the constitution. Good Governance is a style of governance that is expected to be efficient, effective, responsive, corruption free and citizens friendly for social harmony, political stability and economic development. Corruption, decline in ethical and moral values are the toughest issues that states face in the governance process today. Government should work according to the essential criteria of good governance such as rule of law, accountability, political stability, responsiveness, transparency, participation, consensus orientation, governmental effectiveness and efficiency. But the real challenge before us is, how to strengthen ethics and moral values. The effectiveness of government depends more on the capacities of a public sector and less on the acts of political heads. The Right to Information Act, 2005 is a mechanism to fix accountability and adherence to appropriate procedure in public offices. Whistle Blowers Act appears as backbone of public vigilance today. CVC is an important institution for fighting corruption, ensuring probity,

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transparency and accountability. Strengthening of corporate ethics and implementation of integrity and respect for transparency is the way forward. Self-regulation, intervention of shareholders and regulators in case of violation or criminality should be exercised in corporate sector.

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1. Introduction

Governance is a dynamic process, not only about how a territory -country/state is governed but also how does it interact with the society and its citizens. It needs to be continuously strengthened by vigorously pursuing the framework envisaged in the constitution. Good Governance is a style of governance that is efficient, effective, responsive, corruption free and citizens friendly for ensuring people's trust in government and promoting social harmony, political stability and economic development.

Corruption, decline in ethical and moral values are the toughest issues that states face in the governance process today. The agenda of ethical governance 'in its purest form' is unrealistic due to some unequivocal feasibility concerns. In this situation, if not 'Good governance', we can look for 'Good enough governance'. It can at least reduce problems in society by creating new innovations and developing suitable mechanism to eradicate corruption. Both political and administrative levels need correction and citizens grievance redressal system.

Government should work according to the essential criteria of good governance such as rule of law, accountability, political stability, responsiveness, transparency, participation, consensus orientation, governmental effectiveness and efficiency. In this regard, public management committee of OECD referred to ethics infrastructure—to maintain highest degree of integrity and good conduct—workable code of conduct, supportive public service conditions, effective legal framework and active civil society. But the real challenge before us is, how to strengthen ethics and moral values. The effectiveness of government depends more on the capacities of a public sector and less on the acts of political heads.

Governance is for efficiently and objectively implementing the social contract. It needs a highly proficient, well knowledgeable administration to make government institutions inventive, participatory to make sound policies, and citizen friendly orientation.

To restore trust in governmental functionaries, institutional mechanisms—Central Vigilance Commission, Lokpal and Lokayukta (Indian version of Ombudsman), Right to Information need redefinition in an intelligent and realistic manner. Changeover to liberalization and economic reforms, and new types of complex and difficult managerial set-ups, demand an highly competent, well informed and caring administration.

2. Strengthening Moral Values in Administrative Behaviour

For the promotion of ethical conduct in public service, public servants need to improve their knowledge, skills, ethics and attitudes to provide platform for inclusive decision making, reconciliation and social cohesion. They need to be trained and socialized in the changed situation. Any Public servant can reach the highest ethical standard by being friendly to the citizens and promptly delivering services to them and earn respect from them. By fulfilling their lawful obligations to the government with professionalism and integrity, public servants can avoid bringing the public services into dispute through their private activities. ‘Unless public Office is regarded as a trust that a public servant holds for public good, democratic values cannot be generated. Democratic ethos can be fostered through various socializing institutions—homes, religious institutions, schools, youth clubs and mass media.

There are various ways to reinforce the ethical standards in governance. Holders of public offices should take decisions solely in terms of public interest and in no circumstances place themselves under any obligations to outside individuals or organizations that can influence or control their official duties. Merit should be the only criteria in conducting public business, making public appointments and awarding contracts. Cordial relations between the government and the people at different levels will also help ensure moral values transforming governance into good governance. This also applies to elected representatives.

Hota committee too, focusing on the incorporation of ethical principles in the new statutes of civil services had suggested for disclosure of annual property return of all public servants, attachment of *benami* property of corrupt public servants on the websites. Article 311 of the Constitution (dealing with inquiries and

disciplinary procedures) should be suitably amended to enable the President/Governor to dismiss or remove public servants in case of corrupt practices or having assets more than known source of income.

For managing ethics in public services, developing and also reviewing policies, procedures that promote ethical conduct should be clearly drafted and get reflected in the legal framework.

3 Right to Information : Fundamental Source of Citizen Power

The Right to Information Act 2005 is a mechanism to fix accountability and adherence to appropriate procedure in public offices. Corruption is an upshot of secrecy and avowed confidentiality in the conduct of government affairs. The Official Secrets Act of 1923 and its section-5 were convenient smoke screen to deny the public, even the most required or important information classifying as an official secret. Right to Information Act 2005 empowers the citizens to seek information from a public authority, thus making the government and its functionaries more accountable and responsible.

But this Act itself faces challenges from both demand and supply sides, which are of crucial concern for effective flow of information. However common public is not much aware of RTI and its significance. The efforts made by appropriate governments and public authorities have been restricted to publishing of rules and frequently asked questions on websites. There is lack of accountability, inadequate processes within the Government to highlight the success and failures in carrying out various activities mentioned in the Act.

However to make RTI an effective tool to combat corruption, the institutional structure and information infrastructure need to be transformed. Digitization of old and updated records for public reference, disclosure of lists that are not to be disclosed, proper disclosure of information on governmental websites are essential for the citizens to be aware of the functioning of the systems. Hiding information is a crime therefore punishment for concealing information should be decided. It should also be mandatory for the departments to make their audit reports public.

Detailed guidelines on implementation of *suo motu* disclosure under section 4 of RTI Act 2005 was issued to all departments in 2013

i.e. details of public authority to be uploaded in a user friendly manner on their websites. It also directed that training modules should incorporate matters related to the virtues of transparency and open government.

Janta information system should replace Management Information System (MIS) to have accessibility of information of database, helping us to know about the implementation procedure and raise questions. However, to make RTI an effective tool to combat corruption, the institutional structure and information infrastructure need to be transformed. Citizens should be given the Right to Corrupt free Services.

4. Protection of Whistleblowers : Backbone of Public Vigilance

Every organization expects its personnel to be loyal and maintain confidentiality. But if anything goes awry, then extension of support by the employees is highly unjustifiable. It provides ground for whistleblowers to play active role in unearthing illegal and unethical practices to safeguard the interests of the society at large.

The concept of whistleblower is not new. Even Kautilya in Arthashastra had given reference of Suchaka that after giving information if he succeeds in proving it, gets reward in some proportion.

However, there has been multiple cases of threatening, harassment and even murder of whistleblowers (Satyendra Dubey), who had blown the whistle in a corruption case in the National Highways Authority project. It was decided to enact a separate legislation to provide adequate protection to the person reporting corruption. This Bill was passed by the Lok Sabha in 2011 and became an ACT on 21 February 2014. What is important in this Act is the term—Public Interest Disclosure.

But this Act has no provisions of rewarding in financial terms nor does it deals with corporate whistleblowers. Unfortunately it does not define the term and extent of victimization nor has any specified procedure for enquiring into complaints. Anonymous complaints are also not entertained.

What is expected today is proper dissemination of information about the meaning and concept of this Act to both public as well as private offices. Its domain should include private sectors also

because of close liaisoning between corporate and government departments. Provision for financial rewards or incentives will encourage whistleblowers.

There is provision for Anonymous disclosure but not for complete anonymous disclosure, so identity of whistleblowers has to be revealed. The safety issue is of crucial importance and for this, Protection Agency has to be created. Whistleblowers should also be provided immunity from vexatious legal actions. The judiciary, media and NGO need to play an active role in the cases of whistle blowing and ensure that civil servants receive justice in the course of legal proceedings. Official Secrets Act 1932 should be amended to give civil servants reasonable amount of freedom to express their views including the mal-practices in bureaucracy. An internally vigilant bureaucracy will be an effective antidote against its wrongdoings.

Public vigilantism through RTI activists is increasingly becoming a powerful weapon to promote transparency and corruption free administration. But because of the high stakes involved in the RTI applications, it often endangers the lives of the activists themselves. Analysis of victimization of RTI applicants and proper strategies for their protection is a bare necessity today. This will encourage citizens to be more vigilant and active in participation.

Compared to other civil services across the world, Indian civil servants enjoy better terms of service conditions and constitutional protection. It is also the responsibility of the officers to protect whistleblowers working under them. Violators have become so accustomed to their practices and the protection given to them that on exposure they express surprise, claim innocence and unfair discrimination.

At the same time whistle blowing is an act of responsibility, therefore the whistleblowers should act in good faith so as to safeguard the interest of the organization and should have concrete evidence regarding the mal-practices.

5. Central Vigilance Commission : Potent Watchdog can Improve Performance

CVC is an important institution for fighting corruption, ensuring probity, transparency and accountability. However, in last few years there has been vigorous debate on corruption due to

involvement of media, civil society and increased level of expectation and awareness among people of India.

Since the dimensions and scope for corruption has undergone drastic change, there is a need for CVC to re energize itself and pro-actively lead the change, investigate all cases of corruption without fear or favour. Due care to be taken to ensure that honest officers are not harassed for bonafide mistakes, else decision making will suffer and stifle the process of governance. This balancing acts needs high degree of expertise in analyzing and scrutinizing controversial and complex cases of policy making and implementation.

Anti corruption functionaries need new and effective ways to minimize scope for misuse of power, to conduct multi jurisdictional investigations and prosecution to unearth corruption cases.

Issues of corruption of politicians and civil servants dominate public discourse on governance and credibility of institutions. Laws alone are not sufficient to restore public faith in governance, rather timely enforcement is the key to effective deterrence. Need for better legal framework, use of modern technology to combat corruption, balancing of accountability with autonomy are also important to ensure ethical and moral values in governance. Some result oriented measures for improving transparency and accountability are e-auction, e-procurement, e-payment in public sectors.

6. Corporate Ethics

The trust deficit between society and business is clearly becoming a serious issue. Given the large stakes for which corporate compete with each other, it is only inevitable that adjudicating public authorities are often under enormous pressure to favour one corporate against the other. Developing transparent frameworks for decision making is the need of the hour.

Strengthening of corporate ethics and implementation of integrity and respect for transparency is the way forward. Self-regulation, intervention of shareholders and regulators in case of violation or criminality should be exercised in corporate sector.

7. Crony Capitalism - At the Root of Political Corruption

Business and political elites are expected to complement each other to further the cause of society. But this complementarity often

takes the form of cronyism in a democracy putting public interest in jeopardy. All the scams over the decades involving corporate and politicians and bureaucrats stand testimony to this.

To a large extent, high cost of election in India lies at the root of crony capitalism. The necessity of this bonhomie will perhaps be not there once we help usher in the right electoral reforms to cut down on excessive election expenses. Though the Election Commission has over the years tried to come down heavily on abuse of monetary power by candidates by laying down limits on expenses but enforcement of these limits remain weak and lackadaisical.

8. Lokpal and Lokayukta - A Good Beginning, but long way to go

The Lokpal and Lokayuktas Act, 2013, is an anti-corruption Act of Indian Parliament which “seeks to provide for the establishment of the institution of Lokpal”. It has to enquire into allegations of corruption against the Prime Minister, cabinet ministers and members of Parliament and group A officials of central government. The bill was introduced in the parliament following massive public protest, led by anti-corruption crusader Anna Hazare and his associates.

The structure and functioning of this Act is not without loopholes. Judicious representation of members from different background, having expertise in anti corruption policy, in the institution of Lokpal is expected today. Independent investigation and prosecution wing of Lokpal will facilitate its work of investigation and prosecution. Anti-corruption wing of CBI, should be part of the Lokpal so that there is no confusion about jurisdiction of activities.

On the principle of equality, the Prime Minister should come under the ambit of the Lokpal because he also holds several portfolios. After all in a Parliamentary democracy, the Prime Minister holds the office as ‘the first among equals’.

The members of the Parliament should be accountable to the Lokpal for their conduct in the Parliament. Lokpal should be empowered to recommend measures and penalties under conduct rules and these should be binding on bureaucrats.

While aiming to make the office of the Lokpal the supreme body to keep an eye on the possible wrongdoing across the legislative and

administrative spectrum, we should not lose sight of the fact that individuals assuming these roles can also be fallible. Hence, Lokpal members should also be made accountable to citizens, who can make complaint to the Supreme Court against any Lokpal member and seek his/her removal.

9. Media cannot pretend to be 'Holier than Thou'

A vigilant media is a sine qua non of a successful democracy. Neutrality of news is critical to formation of healthy and constructive public opinion. But the so called Fourth Estate is often found wanting in this critical role of 'playing the arbiter' in Indian democracy. In the absence of any strong regulatory mechanism over print or electronic media (the reach of Press Council of India is limited and too circumscribed), regulation has by and large remained limited to 'self-imposed restrictions', which have obviously been found to be inadequate. Siding with political agendas of the government or the opposition has often been the practice.

We urgently need to revamp the existing framework of regulation to bring media under a non-political body, which is not only acutely aware of its fiduciary role but has the powers to enforce neutrality in conduct.

10. Conclusion

It is obligatory on politicians and the government officials to function in a fair, impartial and unbiased manner to uphold and preserve the trust of our people. Anti-corruption institutions are striving hard to address the problems of corruption, but the task cannot be accomplished without the participation of all the stakeholders including the civil society. After all institutions are only as good and as effective as they are made out to be by the widest set of stakeholders.

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