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# **CORRUPTION**

## Parliament is for people

Zoya Hasan

Parliament's "Sense of the House Resolution", agreeing "in principle" to a [citizens' charter](#), the lower bureaucracy to be under the [Lokpal](#) through appropriate mechanism, and establishment of Lokayuktas in the states, paved the way for Anna Hazare to break his 12-day fast. The impasse was broken after both the government and Team Anna shifted from their maximalist positions. Earlier, the government had taken shelter under administrative and legalistic positions, whilst Team Anna demanded nothing less than the passage of the [Jan Lokpal Bill](#) when the [fast](#) began on August 16. Eventually the breakthrough came after Pranab Mukherjee took over as chief negotiator with a new team of interlocutors to reach out directly to Hazare.

No one can deny that the [Anna Hazare Andolan](#) (AHA) has raised awareness about the need to combat [corruption](#) in the political process. However, the AHA has not defined corruption. Is it about financial wrongdoing and pilfering of public money? Or does corruption involve misuse of power? If misuse of power is an issue then power flows from control of state institutions but also from social and economic inequalities.

Who is benefiting most from corruption? Yes, the politically powerful, but also the economically powerful in industry, trade and business, an aspect AHA has sidestepped. Both these issues are central to the politics of fighting corruption. AHA's solutions to corruption are moral exhortations and legal enactments. Most of the people who thronged the streets against corruption are from the middle classes who support the

campaign against corruption but would be averse to upsetting the status quo that benefits the privileged including them.

Laws and institutions are clearly important to the fight against corruption and yet the upsurge of public opinion developed into a strong anti-political and anti-institution sentiment. At the heart of anti-politics is the question of democracy. "Respect the will of the people" was a common refrain. This is majoritarian democracy which is at variance with the established framework of representative democracy, in which the will of the majority is tempered by constitutional, judicial and other constraints. From demanding that Parliament must pass the pre-drafted legislation bypassing the standing committee to statements that it is the people and not Parliament which is supreme, the campaign questioned the sovereignty of Parliament which can result in emasculation of the parliamentary prerogative to legislate.

There is nothing to stop another fasting leader from mobilising thousands of people to demand instant legislation or reversing of existing laws. The provocative anti-political sentiments of the AHA appealed to thousands of people because Parliament has been ineffective lately. But in the recent past Parliament has enacted the right to information and employment after pre-legislative debate and changes and modification were made in consultation with civil society groups at the standing committee stage. There is no reason why the same cannot be done again with regard to the Lokpal Bill.

For sure, the AHA jolted the political system. With the political mishandling of the situation, starting with the decision to form a joint drafting committee for a Lokpal Bill, the government not only lost credibility but also the trust of the people who came out on the streets to vent their anger. A weakened government had no choice but to offer some concessions to get Hazare to call off his fast even as parliamentary procedures cannot be short-circuited or bypassed. The face-saving formula was the "Sense of the House" resolution which strikes a balance

between the need for strong anti-corruption measures and at the same time does not allow Parliament's authority in legislation to be undermined. But the resolution is not binding, the entire proceedings of the House will be sent to the standing committee and there is no timeline for the completion of the process.

In a rare moment of bipartisanship, MPs cutting across party lines sent out a clear message: lawmaking is the preserve of Parliament. After the seven-hour debate the prime minister remarked: "The Parliament has spoken. The will of Parliament is the will of the people." The much-reviled political class rose to the occasion to ask the government to produce a comprehensive Bill containing the best features of all the Bills in circulation, even as Team Anna had insisted that only its Bill should be considered. The Parliament debate did not focus on the nitty-gritty of the Lokpal Bill which will be discussed in the standing committee thus maintaining the sanctity of the parliamentary process. This sets the stage for the adoption of a strong and effective Lokpal Bill. This would require Parliament to discuss the really important questions regarding the Jan Lokpal draft that have not been adequately discussed, notably, the pitfalls of setting up a super-institution without proper checks and balances.

Finally, like the previous anti-corruption campaigns - the JP movement in the mid-1970s and the anti-corruption "movement" of V P Singh in the late 1980s - the mood was not only against the political class but against the Congress government. The main objective of the earlier campaigns was regime change; both catapulted the BJP to the centre stage of national politics. The RSS claimed that its cadres formed at least 10% of the AHA's mass base. This time also the RSS was presumably hoping to remove an elected government. Corruption ceased to be the prime political agenda after the removal of the Congress from power in the wake of the anti-corruption campaigns. It remains to be seen whether "India will not be the same again" after the third anti-corruption movement, or corruption will be forgotten hereafter.

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## **ANNA STIR: WHERE IS IT ALL HEADED?**

B.N.Goswamy

**While no one would deny that something needs to be done to root out corruption, the methodology adopted by the Civil Society team for doing it is questionable. To voice aspirations of the common man is one thing. But to ask that every rule, every system in place should be bent or broken is another**

THE Anna Hazare movement - I am reluctant to call it the Civil Society Movement, for civil society is much larger than this - is a remarkable phenomenon. The stir is slickly timed and finely orchestrated, and the pulling in of so many disparate elements into its vortex is, purely in 'marketing' terms, an achievement in itself. What one is witnessing day after day on the television is in some ways energizing: such a sense of commitment, such crowds, such enthusiasm. And all seemingly Gandhian; at least without any signs of violence, so far.

The cause is laudable: undoubtedly corruption in public life is a looming issue and there is a growing feeling - ably articulated by Anna himself - of there being lack of justice for the common man. The question, however, is: where is it all headed? How will it end? What would have been achieved at the end of it? If the 'demands' of the Anna Team - not so civilly raised, one would have to add, certainly not without a touch of arrogance at times - are met and a victory for the civil society



is declared, would it be a pyrrhic victory where one would have to sit down afterwards and compute with care and sorrow the losses suffered?

### **Conflicting voices**

There can be little doubt that on the part of the government - the other party, so to speak - the stir has not been handled well. There have been conflicting voices, too many heavy-handed statements, too much of incremental 'giving in' or 'yielding of ground', too little preparation for meeting the challenges posed by the scale of the movement and for gauging the mood of the nation. The Opposition is also not covering itself with glory: there is lack of clarity in its views; the impression is gaining ground that they are in it simply for gaining points; there is greater interest on their part in enjoying the present discomfiture of the government rather than in giving cogent thought to the long-term implications of a movement such as this.

At the other end, for the common people, this is all a great spectacle, a perfect opportunity for venting their anger and their frustration. How many among the agitators or the sympathisers, however, truly understand what the intricacies of the issues involved are? The ambit of the Lokpal or the Jan Lokpal bill, the reservations about keeping some offices or institutions out and the virtual impossibility of implementing some of the ambitious provisions will always remain a question. A panacea is what everyone is looking for and hoping to get. But there is no panacea. All around, there is a welter of confusion.

### **In search of a panacea**

From all this, however, one thing is emerging with clarity. Whatever the merits of the agitation, in the manner in which it is shaping it is questioning the very fabric of our Constitution, for that document and Parliament, which is so fundamental an institution of our democratic system, are being truly challenged. While no one would deny that something, something even drastic, needs to be done as far as rooting out corruption from our public, and private lives goes, the point is whether the methodology being adopted by the Civil Society team for

doing it is right.

To try and raise the level of our conscience and to voice the aspirations of the common man is one thing. But to ask that every rule, every system in place, should be bent or broken is another. What is the government being told, not asked, to do? Withdraw your bill and substitute it with the Bill that the 'Team' has cobbled together; this must be done by the end of this month; bypass the Standing Committee of Parliament; pass the Bill - not present or debate, but to pass it as it is - before the present session of Parliament runs out. And so on. These are diktats, not recommendations or prescriptions. And to agree to them, as has been pointed out in clear and cogent terms, is to subvert the processes established by our Constitution. There is need, therefore, to pull back a bit, I believe. And to reflect about long-term implications.

In the energy that has been released by Anna Hazare's stir, especially among youth, there are great signs of hope. But that energy needs to be channelled, watchfully and constructively. Poet Faiz Ahmed Faiz once sang beautifully of the 'crop of hope' - yeh fasl ummeedon ki humdum - but then hinted darkly that it could also wither away as quickly as it grew: 'ghaarat jaayegi' were his words. Before that happens, there is need to nurture that crop with care and to help it turn into a harvest of gold. Perhaps Anna himself will think of ways of doing it, for he does have the ear of the young, it seems.

## **Govt was oblivious of public anger for too long**

Amar Chandel

IT is said that when a pigeon sees a cat, it simply closes its eyes instead of flying off. Since the cat is not visible to it with eyes closed, it feels smug that the danger has receded.

The government did something quite similar in the face of the rising public revulsion over the omnipresent corruption and ignored it for too long. It thought that the voices of protests were just storms in teacups which could be easily ignored, or, better still, suppressed through tried and tested strong-arm tactics. That is why it came to the stage where it had to eat crow on the Anna Hazare issue. Drunk on power, its leading lights ensconced in bungalows in Lutyen's Delhi never realised that Anna was only a symbol of the public anger. If it would silence his voice, somebody else would take his place.

Worse than unleashing the police might against him was the vilification campaign. Manish Tiwari's fulmination that he was corrupt from head to toe was the ideal oil to the fire. The aggression proved counter-productive and helped broaden the protests, which otherwise might have been far less severe.

Had the government been upright, this might have passed off as "firmness". But at the hands of the mega scam-tainted UPA government, it was only seen as haughtiness, which proved to be its undoing.

### **'Empire strikes back'**

Ironically, there is a pattern to this "Empire Strikes Back" syndrome. All sort of enquiries are started against those who dare to say that the government is corrupt. Ramdev was a saint till he protested. Even Lalit Modi was fine till he blew the whistle on minister Shashi Tharoor in the IPL imbroglio. The message that went out loud and clear was that if anyone dared to protest against corruption in the government, he

himself would be hauled over coals. If Anna Hazare's fast was blackmail, so was this tit for tat, and helped in adding indignation to public anger.

The government made another tactical error. What was revulsion towards the politicians in general was allowed to be focused on the government alone by keeping away the opposition parties from the preliminary negotiations with Team Anna on the Bill. No party can claim to be squeaking clean but the ill-thought-out policy of the government gave them a chance to strike a holier-than-thou attitude. Not only that, it brought almost the entire Opposition together. The more the government shouted that the campaign was an opposition conspiracy, the more isolated it found itself.

Even now, it is not too late to realise that corruption by a government functionary is the fountain-head of all corruption. When a minister takes his 10 per cent (if not more), he is giving an open general licence to the contractor to use substandard material. When a bureaucrat takes money on the sly for appointments and postings, he is making all his subordinates employ unfair means.

The public is in a cleft-stick and one has to shell out money even to get what is one's right. While the common man who is forced to pay a tidy sum to get his revenue record or driving licence or ration card in time is given sermons that he should be honest, hardly anything is done to those who demand and accept this bribe. Ironically, he is told that he is equally culpable. That is adding insult to injury.

### **Scratching the surface**

When a man has to pay bribes even to get his due, he is encouraged to curry special favours from government functionaries by offering illegal gratification.

A few cases of action against corrupt officials are cited as the shining examples of a clean-up drive. Given the size of the country and the extent of corruption, these do not even constitute the scratching of the surface. In any case, even the action against men like Kalmadi and Raja came about after nationwide hue and cry.

In governance, what matters most is public perception. Ministers must not only be honest but also perceived to be so. Right now, quite the opposite is true. So many

politicians have gone from rags to riches in such a short time that the entire class stands discredited in the public eye. The situation has deteriorated to such an extent that Mr Manmohan Singh's legendary honesty is being seen as no more than a mask behind which various ministers are looting the country. This image can be salvaged only through genuine action on the ground, not by unleashing legal eagles on the likes of Anna Hazare.

The Jan Lokpal Bill may have many flaws. Perhaps it is not the answer to the problem of corruption in the country. Anna Hazare's fast may amount to "blackmail". But what cannot be lost sight of is that it came after a never-ending cycle of scams, scandals and corruption.

The government should have seized the initiative with an even more potent Bill of its own, and made Team Anna redundant in the process. Instead, it came up with a hopelessly diluted "Jokepal Bill" and ended up smearing its own face with the accusation that it was going all out to protect the wrong-doers.

The UPA should consider itself lucky that the protests are being spearheaded by Gandhian crusaders. If it continues to sideline them, there is a very real danger of the movement passing into the hands of the people who have no respect for non-violent means. That is a possibility which every right-thinking person should be frightened of.

**The choice is clear**

Hiranmay Karlekar

**Anna Hazare's movement against corruption has brought together those who want to see the system change for better. They must now contribute their mite.**

The movement led by Anna Hazare has served the very important purpose of placing the issue of corruption at the heart of the national discourse. It has, however, also created the impression in vast numbers that the passing of a Lokpal Bill which is a clone of the Jan Lok Pal Bill drafted by Mr Hazare and his associates, will put all forms of corruption to an immediate end. This is not going to happen. The danger is that the consequent disappointment, which will be massive, will so demoralise people that they will again lapse into a mood of deep depression, resignation and inertia which will be difficult to dispel and, after a brief retreat into the woodwork, the corrupt will emerge and rule again.

It is important to remember this as also the fact that corruption is as much a societal phenomenon as it is governance-related. It pervades every sphere of life. Corporate corruption is as real as widespread as that of the governmental variety. The professions are no exceptions and their members who evade paying taxes are as guilty as officials who receive bribes. Even people like teachers and judges, who are supposed to be above the evil, are no longer always — and perhaps not even overwhelmingly so. Instances of teachers leaking out examination question papers, increasing marks for a consideration and senior academics passing off the work of their junior colleagues as their own, are too frequent for comfort. Judicial corruption has also been under the public scanner, though the judiciary as an institution remains the last resort of the people against administrative and corporate high-

handedness and corruption and has a number of outstanding judges.

Given the spread of corruption through all strata and walks of life, it will require more than legislative and administrative action to end it. Mass upsurges, like the one triggered by Mr Hazare, are ephemeral. A comprehensive and multi-dimensional approach is needed. For that one needs sustained political action and popular pressure. That would require a qualitative improvement in Indian politics, which in turn would require more and more people of integrity and vision to join it.

The need for this becomes clear on recognising that corruption is rooted in the structure of India's administration, which has remained the same as during British rule. The Government's basic orientation then was towards the maintenance of law and order and revenue administration. Its powers were awesome and exercised from above. There was no constitutional and democratic accountability. The Indian Councils Act of 1861, which marked the first step in involving Indians in legislation and policy-making, did not provide for elections. Indians were appointed. The Indian Councils Acts of 1892 and 1909, and the Government of India Acts of 1919 and 1935, rested on restricted franchise and gave very little powers to those elected to legislative bodies. The all-important matters of defence and maintenance of law and order were in British hands.

The massive concentration of power in the Government conduced to corruption. Subordinate police, jail and revenue officials were often corrupt. Things however, were kept within bounds from above by a Government which insisted on efficiency in law-and-order administration and maximisation of revenue collection, both of which could be undermined by corruption. The 'steel frame' of the administration was the Indian Civil Service, an elite cadre which often condoned — even rewarded — high-handedness by its members but had little tolerance for personal corruption. It had inherited the mantle of the Covenanted Civil Service of the East India Company, the remunerations

for whose members were fixed with the declared intention of putting them “above temptation.”

Corruption remained within limits in the immediate post-independence period. At the helm of governments at the Centre and in the States were the stalwarts of the freedom struggle known for their integrity and wisdom and most of whom placed the national interest above their own. The administration, led by the Indian patricians of the ICS who had played a crucial role in helping the political leadership deal with the trauma of Partition, communal riots, influx of refugees and the transition from colonial to national rule, also retained its pre-Independence character. Slowly, however, things began to change.

The stalwart leaders of the freedom struggle, most of them advanced in years when they assumed office after independence, gradually succumbed to gerontion. So did the tall poppies of the ICS and allied civil services. Simultaneously, the powers and functions of the administration expanded as the state became the principal instrument of economic development and social change. With powers, the opportunities of corruption and the temptations born of these also grew. Equally, development opened up new avenues of employment, professional advancement and new business opportunities.

Finally, the introduction of adult franchise changed the character of Indian politics in the short span of a couple of decades. The advantage went to people who could talk to the masses in their own idiom and mobilise their support. Equally, the masses turned towards leaders from their own caste, ethnic and linguistic groups. With the state playing an increasing role in development, those wielding political power, came to control access to the state’s resources and their distribution. From this, use of political offices to line private pockets and also resort to the politics of patronage, was a short step.

The field was now open to carpetbaggers, particularly since the educated

middle class, many of whose members had joined the freedom struggle because of the humiliating experience of colonial rule, now found the challenges of adult franchise politics a bit too much. Instead, they turned to the new opportunities thrown up by development. This abdication of its political role by the middle class has been a major cause of the poverty of India's political leadership.

Things, however, are changing. The middle class, particularly the younger elements of it, are no longer prepared to put up with the humiliation and extortion to which every citizen is subject the moment he or she steps into a Government office for some work. One can see their massive presence in the movement led by Mr Hazare. It will be a pity if disappointment makes them opt out again. Instead, they should think either of joining one of the existing political parties or forming a party of their own. Abdication is no answer.

## **Defining a strong, effective Lokpal Bill**

Shashi Shekhar

**With mounting popular anger over corruption, various draft proposals for an effective and strong Lokpal Bill have surfaced. Each proposal fails to address the fundamental question of accountability. The final draft of the Lokpal Bill should take a holistic view of structural, constitutional and systemic reforms while ensuring justice is delivered. Here are some suggestions towards that end**

There are now at least four draft proposals for what everyone fashions to be a strong and effective Lokpal. They all miss the point that no reform against corruption can derive strength from good intentions or ‘independence’ without clear accountability. Hence the Lokpal debate cannot be about a single agency, office or officer. Instead it has to be about a system of Government and a culture of governance rooted in the principle of accountability.

A strong and effective Lokpal Bill has to be one that takes a holistic view of structural reforms to the Constitution and systemic reforms to how laws are enforced and justice delivered. Unfortunately, all of the proposals in circulation only tinker with the idea of adding a new layer of bureaucracy without cleaning up the underlying mess.

The current political crisis in Indonesia is a stark pointer to the inadequacy of all of these proposals. In an interview to the *Jakarta Globe* on August 25, the chairman of Indonesia’s Corruption Eradication Committee admitted that fighting corruption was complex and the need

of the hour for Indonesia were systemic reforms and bureaucratic reforms. This late wisdom coming nine years after Indonesia's version of a Lokpal came into place.

India doesn't need to waste another decade to learn what we already know today. Here is an outline for a strong Lokpal Bill that would be consistent with the principles of Ambedkarite constitutionalism.

This Lokpal Bill should be respectful of constitutional division of powers between the executive, the legislature and the judiciary and federalism. It should strive to establish checks and balances while recognising the elected people's representatives as the only representatives of the people's will. The Lokpal Bill may be a guiding template to States, but it should be left to each individual State to come up with its own legislation where appropriate. The Lokpal Bill must not impinge on States' rights to make their own laws.

### **Objectives of the Lokpal Bill**

The goal of the Lokpal Bill should not be to create a new expansive agency but to make existing agencies efficient and accountable. Hence the Lokpal Bill should strive to provide crystal clarity on what role existing agencies shall play and how they will be independent and accountable in dealing with situations where individuals acting on behalf of the Union Government, Parliament or judiciary must be investigated and prosecuted.

The Lokpal Bill must also not define new crimes nor define new kinds of punishments but must strive to remove ambiguity and ensure consistency in existing definitions so the Union Government, Parliament and judiciary when convicted of wrong doing do not enjoy special provisions or exceptions. Lastly, the Lokpal Bill must ensure that there is continuous monitoring and feedback on the effectiveness of such investigations and prosecutions through the creation of a new limited

agency. This agency should be limited to monitoring effectiveness and make recommendations to Parliament on any corrective legislative or executive action.

Finally, the Lokpal Bill must strive to create a culture of accountability to the people by requiring people's representatives and judiciary to be fully accountable to Parliament for conflicts of interest and ethics violations with respect to matters inside Parliament and courts. It must also strive to ensure there is no immunity from criminal prosecution for acts committed outside Parliament or courts.

With these objectives the Lokpal should legislate on constitutional reforms to ensure a culture of accountability within governance and on justice delivery reforms to ensure a system of Government that is fair, unbiased and committed to justice delivery.

## **Constitutional Reforms**

BR Ambedkar in his speech in the Constituent Assembly introducing the draft Constitution explained how the draft tried to achieve responsibility in our system of Government at the expense of stability. Clearly, six decades on we have failed on both fronts with minority Governments giving instability and apathetic Governments shirking responsibility. Hence the goal of the constitutional reforms has to be about making the Prime Minister accountable.

This can be achieved if we consider the idea of adding a single non-voting seat to every State Assembly and to the Lok Sabha. This single non-voting seat could have for its constituency all eligible voters within that State in the case of a State Assembly and similarly it could have all of the eligible voters in India in the case of the Lok Sabha. During elections this all-State or all-India constituency could go to polls along with the other legislative and parliamentary constituencies. The person who gets elected to this non-voting Lok Sabha or Assembly seat could

be automatically considered to be the Leader of the House as he or she would be reflecting the collective will of all the voters of that Legislative Assembly or Parliament. Since the seat is a non-voting addition to the strength of the House this seat will not change the balance of power in the legislature which continues to be same as before.

By virtue of being the leader of the House the person elected to the all-State or all-India constituency will have to be invited by the Governor or the President to form the next Government as the Chief Minister or Prime Minister. Irrespective of whether a party or a combination of parties has a legislative majority the Chief Minister or Prime Minister will have a fixed term which will be the same as the term of the legislature. Removal of the Chief Minister or Prime Minister would now require a higher legislative bar similar to a Presidential impeachment. The anti-defection law becomes redundant and irrelevant since the Government no longer depends on a simple majority in the legislature.

In the absence of anti-defection laws, a cultural shift could be effected wherein legislators across party lines can think independently and come together to propose bi-partisan Bills in a manner similar to what we see in the United States. The Chief Minister or Prime Minister could then also have the additional freedom to appoint members to his Cabinet from outside the legislature thus eliminating another source of instability and dissidence.

The net effect of the above constitutional amendments would be that the legislature could solely focus on its twin responsibilities of law-making and executive oversight. The stability of Governments would no longer be impacted by how fractured or fragmented the legislature is. Overall we could move towards a culture where the executive is focussed on law enforcement and the legislature on law-making while both keep the judiciary out of either responsibility thus restoring the balance of power and separation of powers intended by the Constitution.

A culture of direct accountability of the executive can be restored as against the current disturbing trend by which Chief Ministers and Prime Ministers have taken an indirect route office without contesting elections.

## **Justice Delivery Reforms**

We must also consider recasting the Home Ministry into a separate for justice delivery which shall be responsible for all investigations and prosecutions within the jurisdiction of the Union Government. The justice Minister should control three agencies for investigations, prosecutions and vigilance. The Central Bureau of Investigation should be recast as the sole Federal Investigation Agency with clear jurisdiction instead of the current *ad-hoc* manner of referring investigations to CBI. The NIA and the CBI should be merged. The investigation agency should not require special permission to investigate and prosecute Members of Parliament or judiciary for conduct outside Parliamentary or conduct outside court proceedings.

The Central Attorney's Office shall be responsible for conducting prosecutions. The Central Vigilance Commissioner shall be responsible for whistleblower protection. The appointment of the heads to these three agencies should be subject to approval by Parliament. The heads of all three agencies should be subject to parliamentary oversight for their conduct. The Justice Ministry should also be responsible for a quasi-Government National Justice Commission that harnesses judicial and prosecutorial talent and promotes excellence in those areas. The mission of this commission is to monitor the needs across the nation and to help State and local Governments add capacity with right talent.

In addition, the Supreme Court should be recast as a purely constitutional court with the discretion to take up or reject appeals based on their constitutional merit. Its primary role would be limited to interpreting the Constitution and ruling merely on constitutionality of

decisions of lower courts and constitutionality of actions of all agencies of the State. Four Regional Appellate Courts should be set up for all appeals of decisions in lower courts. Appointment of all judges to Supreme Court and Regional Appellate Courts shall be subject to parliamentary approval upon the recommendation of the Ministry of Justice.

The Supreme Court should comprise a limited number of judges (an odd number less than 10) who should be appointed for life. There should be strict entry criteria for Public Interest Litigation to be taken up by the Supreme Court based purely on constitutional merit. The Supreme Court should not have the power to assume any executive functions including but not limited to — investigations, prosecutions, law making and other executive actions.

## PIONEER 27.8.11 CORRUPTION

### **Understanding the angst**

Chandan Mitra

**People's frustration is not only with Parliament, people are angry with the entire system of governance and we must understand why**

Sir, this is not the first time that Parliament is debating corruption, and I am sorry to say, this would not be the last time that we are debating corruption. But, today, we are discussing it in a particular context. We have seen over the last 10 days the kind of crowds that have been assembling and the kind of enthusiasm and excitement that has been dominating the streets of Delhi. One can blame television, one can blame the media that they have exaggerated or that they have overdone it. But you cannot ignore the fact that there is a genuine feeling of angst and anger against the system and an entire generation has now taken to the streets because they feel that their grievances are not being addressed.

It is, largely, also true that it is an urban disconnect, more than in any other part of the country. But, Sir, just because people live in the cities, are they not citizens of India? Don't they too have their rights? You can call it a middle-class uprising. According to estimates, today, the middle-class population is 267 million, that is, 26.7 crore, which is almost equal to the population of the United States of America. If there is a certain feeling that their voices are not being heard, they are not getting opportunities, they do not have a proper grievance redressal system, is it wrong on their part to feel that?

Only last week, it appeared in the newspapers that in a medical college

in Mumbai, a seat was sold for 1.71 crore of rupees; ₹ 1.71 crore for a seat in a medical college! You can very well imagine the kind of doctors that will be turned out by that kind of a college where they have to pay this much in order to gain admission. What have we done to provide opportunities for our youth, which has done so well?

India leads the world in information technology. Our scientists, doctors and engineers are amongst the best in the world, but what have we done to create infrastructure, technical infrastructure, social infrastructure, to fulfil the aspirations of the youth? Maybe, the urban youth is not the biggest vote-bank. I am afraid that the politics of vote-bank has blinded Governments. I do not wish to name any particular party, but the politics of vote-bank has blinded Governments into taking a particular course of action by which people feel neglected, their grievances are not addressed and their opportunities have dried up.

Sir, unfortunately, the mood of the country and the mood of the young boys and girls was totally misread by the entire administration. Whether you blame the Delhi Police or anybody else, — various organisations have been named — whomsoever you may blame, you cannot take away the fact that the Government changed its position so many times in the course of the last 10 days that the anger of the people multiplied, and we are paying the price for that.

If a gun is held to our heads and we are told to pass this Bill by the so date and dispense with the Standing Committee, and if this demand is finding resonance, you must step down from your pedestal and talk to the people. Some people say, “We are saying the right thing. Why do you want to discuss it in Committee after Committee and take months for this? We are not prepared to wait?” You must appreciate their frustration.

Sir, April 11 was the day when the previous agitation ended at Jantar Mantar. Today, we are here on the 24th of August. In between what was

happening? Why is there so much delay? It will be good if all the good points of these Bills that have been presented like the Government's Lokpal Bill, Anna Hazare group's Jan Lokpal Bill and Ms Aruna Roy's NCPRI's third version are incorporated. What prevented us from doing all this in the intervening period? The Jan Lokpal Bill was in the public domain. Before coming out with its version, these points could have been incorporated in the Government's Bill. Unfortunately rigidity caused a stalemate, but I hope that it will be resolved.

The scale of corruption in the country has become mind-boggling. Another major grievance of people today is that there is hardly ever any conviction for corruption. Sir, there are 29 Acts in this country against corruption including the Prevention of Corruption Act. How many persons, politicians, bureaucrats, policemen, etc, have actually been convicted and sent to jail for corruption? And yet corruption has been a major factor.

Sir, I speak with some authority because in 1998 I wrote a book called *The Corrupt Society* published by Penguin. Recently, somebody asked me "Are you going to do a follow up?" I said "Whatever I wrote nearly 14 years ago is all valid even today." Clearly, we took no steps all these years and only we tried to crackdown on petty corruption in a few token cases. Just a few months ago, a DTC bus conductor was sentenced to two years jail for malappropriation of rS 10 because he did not give a ticket to a person!

People have swindled — mind boggling are the figures — rS 1.76 lakh crore, rS 60,000 crore, rS 90,000 crore, what happens to them? Does anything happen to them? Once the trial begins, they are given bail. What a tragedy that on the day when the biggest tax-evader in India's history, one Hasan Ali, was granted bail by a High Court, Anna Hazare was sent to jail. If this is the kind of contradiction that happens and if this is the kind of double standard that we adopt, are you surprised that the young are angry?

Are you surprised that the people have a sense of right and wrong? What the entire system is doing? I am not only blaming the Government; what the entire system is doing is wrong. Sir, this is a huge wake-up call. My friend, Shri Naresh Gujral, very rightly talked about the criminal justice system and how there are delays and delays in this.

Sir, we have to holistically approach this issue. I think the entire establishment has to put its mind together to see what has gone wrong, understand the mood of the country and understand why the people are angry. We need to be accountable. Parliament and people cannot be pitted against one another. So, I appeal to everybody starting with the Government that this is a wake-up call. To the Government, this is a wake-up call; also to Parliament, to the political class, to our system of democracy, to the judiciary and to everybody, this is a wake-up call. We have to adjust this problem together which is why we are debating.

I hope an appropriate and effective Lokpal Bill is passed by this House and we will take one further step in trying our best to try and control this hydra-headed monster, this cancer of corruption.

*-- This is a marginally modified version of the speech delivered by the author in the Rajya Sabha debate on corruption on August 24.*

## **Of accounts and accountability**

N K Singh

Recently, there has been sharp focus on the Comptroller and Auditor General (CAG) of India. The CAG report on the 2G spectrum allocation provided a credible basis both for the CBI investigation and the hearings of the Public Accounts Committee (PAC) of the Parliament. Similarly, the CAG report on multiple irregularities related to the Commonwealth Games has proved embarrassing for the government. CAG's report on the Adarsh housing scam in Maharashtra adds to the woes of a beleaguered government. On the horizon are reports on the working of the civil aviation and petroleum ministries on the purchase of aircrafts and cost overruns on production-sharing contracts.

Questions are being asked as to whether the CAG has overstepped its constitutional powers. Aspersions are also being cast as to whether these reports are setting the agenda of the national dialogue.

We must understand the role and obligations of the CAG under the Constitution of India and in light of the fact that separation of powers is one of the basic features of the Constitution. It can be nobody's case that everything that the CAG says is gospel truth. As the principal auditor, it is his obligation to point out deviations and irregularities as he perceives and it is for the concerned ministry or institution to reply, respond, correct and initiate follow up action wherever appropriate. Sensationalising the CAG's findings not only politicises a constitutional entity but distracts from the objectivity of his findings.

There are however many other issues relating to the working of the CAG. First, the CAG has performed the constitutional mandate given to him. The CAG is the guardian of the public purse for both the Centre and the states. This is the reason why Dr B.R. Ambedkar said that the CAG shall be the most important officer under the Constitution of India. The enormous growth in the size and complexity of government budget also has a bearing on the duties of the CAG.

Second, unlike many other countries like Japan, New Zealand, Australia and France, the CAG in India mainly performs the function of ex-post audit. Many regrettably describe it as a dissection well after rigor mortis has set in. Unfortunately, it doesn't have the legal power to enforce action on its findings, recover losses of government money and property and initiate action against delinquent officials.

Third, the National Commission to Review the Working of the Constitution had recommended the creation of a multi-member audit commission on the lines of Election Commission, whose members may have the same constitutional status and terms of service as the CAG. A similar position already exists in other countries like Japan, France, Germany, South Korea in the form of audit boards or audit courts.

Fourth, the Constitution of India visualised the CAG to be both comptroller as well as auditor-general. However, in practice, the CAG is only fulfilling the role of an auditor-general and not that of a comptroller. The government by an executive order assigned the role of the comptroller on the Controller General of Defence Accounts. However, the constitutional obligation of acting as a comptroller rests only with the CAG, a function which he has unfortunately not discharged. In this respect, the CAG of India differs from the CAG of Britain, which has powers and functions of both comptroller as well as the auditor-general.

Fifth, the Constitution does not lay down any qualifications for the appointment of the CAG and does not prescribe any procedure for making the appointment except that the CAG shall be appointed by the President of India. In the UK, the appointment of the CAG is ratified by the House of Commons on the recommendation of the PM made in agreement with the chairman of the PAC.

Sixth, there is no system of external audit of the CAG in India. External audit of the office of the CAG exists in the UK based on the principle that the agency that audits other outfits should itself demonstrate professional soundness and efficiency.

Seventh, it is believed that CAG has recommended some two years ago for amending the Act of 1971 to widen its scope with growing number of public-private partnerships and the spending by local bodies largely remaining outside its purview.

Finally, the CAG is an examining agency and not an investigating one and nor does it have the sweeping powers like some other functional democracies. It is expected to consider the efficiency, economy and effectiveness of all public expenditures and revenue and is the most important watchdog in our democratic set up. India has entered an uncertain phase of governance. Coalition politics cripples purposeful financial rectitude. In these uncertain times, which may last for long, there is a need to strengthen the CAG further.

# **ECONOMIC DEVELOPMENT**

## **The crisis in the developed world**

C. R. L. NARASIMHAN

AFP A discounted poster presenting U.S. dollars bills in circulation is seen in the visitor centre of the Bureau of Engraving and Printing in Washington. New recession worries and market havoc posed the toughest challenge yet this year for the US Federal Reserve.

The U.S. economy has plenty of resilience and ability to bounce back

What ails the economy of the U.S. and those of some European nations? Is there a possibility of the developed countries slipping into a recession for the second time in less than half a decade? What will be its consequences for the rest of the world? Will the U.S. be able to maintain its economic leadership?

The consensus opinion is that the U.S. economy, the world's largest, is having anaemic growth, even if it has not slipped into a recession yet. It is also clear that high indebtedness both on the part of the government and individuals has landed the U.S. and many European nations too in this predicament. However, there is far less agreement on what needs to be done to revive these economies.

The current crisis that the U.S. and Europe is facing, unlike the 2008 global crisis, is not rooted in the financial sector. The disastrous lending practices of leading banks then in the 'sub-prime' housing loan segment landed not only the financial sector and the U.S. economy in a mess but also dragged most developed countries into a mess because of the strong global linkages. Much has been written on the culpability of the banking system in the great financial and economic crisis. But apart from being

wrapped on the knuckles as it were, banks in the U.S. have not only survived but prospered.

It is a matter of great irony that while the 'real' economies of the developed world have been tottering, their financial sector, which inflicted so much pain, has prospered. For some banks, at least, a regulatory cap on managerial remuneration, executive bonuses and so on is anathema. The days they received large infusion of public money just to stay afloat have obviously been forgotten.

### **Eurozone debt crisis**

On the other side of the Atlantic, leading European banks, which have bought sovereign debt of Greece, Portugal, Ireland and a few other countries are under stress as the eurozone's debt crisis intensifies.

The crisis in the U.S. is a crisis of confidence, writes C. Rangarajan in a financial daily on August 22. The downgrading of its sovereign debt by Standard & Poor's (S&P) has been a unique event, bringing down the quality of American government paper by one notch.

Even though other rating agencies have retained the highest grade, the comments of S&P are noteworthy in that it attributes its action as much to the fiscal process as to the political imbroglio which almost caused the federal government to default.

Not only the rating agency, but banks and financial agencies, investors and governments around the world have questioned the credibility of a political process that apparently enabled sections of the political elite place their individual dogmas and partisan interests above national interests.

The debt reduction programme approved by the Congress and the Senate also lacks credibility. What the U.S. economy needed at this juncture was a deal that kept up spending in the short-term, with a stress on the

much needed infrastructure investment and a big medium-term reduction in the federal deficit centred on a major tax reform. Instead, the deal works in the opposite direction, failing to shore up the economy in the short-term without identifying worthwhile means to reduce the deficit in the medium-term.

Besides, certain recent developments may be coincidental but do cast doubts on the state of the recovery in the U.S. Official revisions to the GDP statistics of past few years, released at the end of July, showed that the 2008 recession was deeper than what was assumed and the subsequent recovery flatter. Over the past year, output has grown by just 1.6 per cent and even that is showing signs of petering out. According to economists, if past experience is any guide, the rate of growth is such that the economy is poised to trip into a recession.

If that happens, the rest of the world, including India, will suffer. It is often argued that India's foreign trade, as a proportion of GDP, is relatively small. Hence, outside influences on the economy will be minimal. This view is too narrow as there are many other channels, besides foreign trade, that connect the Indian economy to the rest of the world.

Notably India's balance of payments has been dependent on capital flows. Uncertainty over the U.S. economy may cause capital flows to behave irrationally, often going back to the sanctuary of safe haven instruments in the U.S. On the other hand, if the U.S. Federal Reserve, as part of its efforts to provide succour to the U.S. economy, does another round of quantitative easing, that is, buying government bonds with freshly minted money, cross-border flows towards India and other emerging markets may increase exponentially, posing major policy challenges for these economies.

For all its recent troubles, the U.S. will retain its leadership position. The American dollar will remain the world's number one currency, in trade,

dealing rooms and a currency of choice for governments to park their export surpluses.

Though weakened by the crisis, the U.S. economy has plenty of resilience and the ability to bounce back.

However, weak economic growth and the political squabbling do portend a diminished role for the U.S. in the days ahead.

Keywords: [U.S. debt crisis](#), [credit downgrade](#), [S&P rating](#)

# **POLITICS AND GOVERNMENT**

## **Congress's leadership crisis**

Kalyani Shankar

**In the absence of its party chief, the Congress is seemingly suffering from a leadership vacuum that is hurting the Government's handling of the Anna Hazare episode. Time for the Prime Minister to stand up and take charge**

Going by the desultory mood within the Congress in the absence of party chief Sonia Gandhi who is still recovering from her surgery abroad, it seems like the resultant leadership vacuum is spilling over into the UPA Government. For one, there is definitely growing unease within the party over the Government's handling of Anna Hazare's anti-corruption movement.

Congressmen are despondent and worried. Every passing day confirms that those currently at the helm of affairs have failed to handle the crisis in the absence of their leader. Congress MPs are unable to understand why there is inordinate delay in the Government's response to the upsurge of public support for Anna Hazare. They are bewildered at the amount of time the Prime Minister has taken to write a letter to Anna Hazare who has already been fasting for more than a week at Ramlila Maidan. Many have also failed to realise why the Government waited till the all-party meeting on Wednesday to mobilize political support on the Lokpal Bill issue.

Most Congress MPs, particularly the younger lot, feel that had Sonia Gandhi been in New Delhi, things would not have gotten so very out of hand. A popular SMS that has been doing the rounds recently and likens

Sonia Gandhi's absence to that of the absence of the lady of the household well expresses their feelings. The desperation has driven Congressmen to openly question whether they must wait for their leader's return to deal with the Anna Hazare movement. Even Union Cabinet members have adopted a hands off policy, only watching the confusion from the ringside.

During the earlier fast undertaken by Anna Hazare in April, it was Sonia Gandhi's intervention, which ended the fast within four days after she had asked the Prime Minister to engage his team. Much of this was attributed to her association with a number of NGOs leaders who are visible in her National Advisory Council, which allowed her to contain Anna Hazare and shield her party.

Now with Anna Hazare's anti-corruption movement reaching its peak, the younger MPs particularly from Delhi and Mumbai where the movement has the largest reach, have begun to criticise the Government for its inept handling. Younger MPs like Mr Sandip Dixit, Ms Priya Dutt and Mr Sanjay Nirupam have even expressed their reservations about the Government's version of the Lok Pal Bill. The call given by Team Anna to put pressure on the MPs has given them jitters, as they do not want to deal with the angry crowds that may land up at their doorsteps. Perhaps it is because of this that some Congress MPs like Mr Praveen Singh Aron have gone to the extent of sending the Jan Lok Pal Bill to the standing committee to save their skin.

There has been all-round criticism of the handling of the situation by Ministers who have been engaging with Team Anna. For instance, a senior minister like Mr Pranab Mukherjee should have been roped in right from the start, instead of allowing the confrontational attitude adopted by Mr Kapil Sibal and Mr P Chidambaram.

With Rahul Gandhi ducking the leadership role — he has not uttered a word on Anna Hazare's agitation although there were reports that he had

met the Prime Minister thrice — the party is at a loss. Perhaps Mr Gandhi is diffident and does not want to put himself forward; but even the Congress core committee, which Ms Gandhi had appointed to deal with the problems from the party side, has also not come out with any amicable solutions.

When Mr Gandhi returned to New Delhi, the party thought that he would stand in for his mother and take a lead in resolving problems. But as the days go by, it is now clear that he has left it to the Prime Minister and the Government to deal with the crisis. To be fair, his advisers perhaps think that this is not the moment for him to take the lead as the situation has become very messy that no matter what he does, he cannot emerge a winner. So that leaves the Prime Minister to take sole responsibility. Previously, Ms Gandhi was dealing with political parties while Mr Manmohan Singh dealt only with the Government. Now that the whole show has fallen on his shoulders. He should show his mettle by seizing the moment. There have been times when political observers have felt that Mr Singh was not being allowed a free reign but now he has the opportunity to prove them wrong. If only he could muster the courage and take bold decisions, the party would also look at him with admiration.

The first thing to Mr Singh should restore is the credibility of the Government as well as his own. Going by how much his image has fallen, this is going to take a long time but he should start work immediately.

The second thing is to provide an alternate agenda so that the country's attention which is currently focused on Anna Hazare maybe diverted. Finally, Mr Singh must also show some action that will prove that he means business on the anti-corruption front. The time for action is now and there is no space for even a moment's delay. The proof of the pudding is in the eating and it is for the Prime Minister to provide that proof.

## **Why is this man walking free?**

Udayan Namboodiri

**If Buddhadeb Bhattacharjee is allowed to walk away into the sunset, then the very idea of India is in trouble. The former West Bengal chief minister must stand on the dock, held responsible for three decades of murder and corruption**

Buddhadeb Bhattacharjee is fighting hard to win a second innings for his political career — not in Writers’ Buildings, the seat of the West Bengal government, but as the public face of his embattled party, the CPI(M). As evidence of the murder, rape and mayhem committed by his cadre through three decades surfaced throughout July and August in the form of mass graves here, an arsenal there and a confession in yet another place, the former chief minister decided to do something about it. Justify.

On August 13, he shocked the people of Bengal by making a rousing speech in defence of Sushanto Ghosh, a former cabinet colleague, who was taken into custody when skeletons of proven Trinamool Congress supporters were found in the backyard of his ancestral house in West Medinipur district. Braving the monsoon downpour, which was followed by an equally torturous sunbake, Bhattacharjee thundered away for a full hour, denying and alternately justifying the mass murders. He forgot that the inconsistencies in his speech were all too apparent. “How can you reason with a demagogue?” an embarrassed second-rung CPI(M) leader remarked to me later.

Savour this: “They have arrested Sushanta Ghosh out of revenge for

some incident that had happened 10 years ago.”

Later, in the same speech: “This government (Trinamool) has set up commissions to investigate what had happened 40 years ago at Sainbari.... They are initiating commissions to probe the Marichjhapi incident, Ananda Margi incident. This is a revengeful government and is targeting our party and leaders like Sushanta Ghosh.”

It was unbelievable that a man generally regarded as suave and moderate should harbour a belief system which supports the applicability of the statute of limitations for criminals. While he obviously lacks the perfidy to deny outright his party’s role in the horrific murders of Keshpur, Gorbeta, Pingla, Saibari, Marichjhapi and Bijon Setu (recalled as the Ananda Marg massacre, 1982) — at least not up to now — he is shameless enough to demand that the masses which suffered humiliation and pillage overnight develop short memories.

Unfortunately for him, Bengal’s newspapers and TV channels are not only resurrecting a shameful past, but bringing the new generation face to face with some uncomfortable truths. A lot of Bengali intellectuals these days are recalling how Adolf Eichmann, the infamous chief executive of the Nazi holocaust programme, was dragged before an Israeli court full 16 years after World War II and convicted. Even today, two former Nazis, both in their 90s, are facing trial for their individual responsibility in mass murder. The butchers who planned and carried out the infamous Srebrenica massacre were apprehended only last month and flown to the Hague for an international trial. Many of the architects of the Cambodian Communist holocaust of the mid-1970s are still in custody, awaiting trial.

The Bengali people, despite Mamata Banerjee’s proclamation not to follow a policy of vendetta, are slowly realising where the convergence occurred between the CPI(M)’s political, economic and social policies. Because Buddhadeb condoned, encouraged and even fanned the

criminalisation of his cadre, the entire fabric of life got corrupted. Elite Bengalis were the unwitting coxmen of the deceitful boat of Buddhanomics. This class, mirroring the attitude of ordinary Germans who after World War II pretended ignorance of the crimes of Nazism, looked the other way, or sometimes cheered, as Buddhadeb went his way rigging elections and letting ministers like Sushanto Ghosh and Narayan Biswas run amok. Bhattacharjee inducted as his minister of industries a common criminal, Nirupam Sen, with full awareness of his role in the 1970 Sainbari massacre in which a mother was forced by CPI(M) criminals to lick her murdered son's blood.

Buddhadeb not only let them be but also helped by instructing his cadre to provide the Kolkata chatterati maximum latitude in the expression of their selfish aggrandisement. Therefore, under his rule, Bengal had the highest concentration of economic criminals — whether “industrialists” who stole their workers' provident fund contributions or traders who thrived without paying a paisa in sales tax or civic dues. The result: a Rs 2,00,000 debt bomb inherited by the successor government.

We must make a distinction between the career of Buddhadeb as chief minister (November 2000 to April 2011) and his term as minister for police in the 1993-2000 period. The last 18 years, taken as a whole, made up the most paradoxical phase of Bengal's near history. The liberalisation of the Indian economy was a macro-economic wonder story and no doubt a small part of that flowed to West Bengal despite the CPI(M)'s obstructionism. But all the ugly manifestations of neo-liberalisation were visible in the state — deepening poverty, differences in living standards between income quintiles, destruction of agriculture, criminalisation of the polity, environment degradation hand in hand with urbanisation, etc.

What exacerbated the economic and social crises was the increasing insecurity felt by the Communists. The rise of a viable Opposition forced Buddhadeb to recall the traditions he had himself set in the 1980s.

Political murders, election rigging and terrorisation of the masses became a way of life in rural and semi-urban Bengal. However, it is not that more mass murders and vote stealing happened in Buddhadeb's time than in Jyoti Basu's (1977-2000), but because Buddhadeb lived in the age of media glare, his got a bigger share of disrepute.

It is impossible to put a precise figure to the number of political murders condoned by Buddhadeb Bhattacharjee, either as police minister or chief minister or both. A calculus developed by state Congress leader (now irrigation minister) Manash Ranjan Bhunia, based on union Home Ministry figures, held that close to 20,000 people died in political incidents between 1977 and 2004. A more moderate sum was put out by Salman Khursheed when he was the AICC observer for West Bengal — about 9,000.

Perhaps the truth lies somewhere in between. Given that the police force, which he controlled since 1994, i.e. even under Jyoti Basu, was reduced to state of a partisan, private army of the CPI(M), the vast majority of the murders and mayhem were not even recorded. Gaurav Dutta, an IPS officer who served as SP of Midnapore (pre-bifurcation) was the most visible symbol of this degeneration of police professionalism, but there were countless others. Buddhadeb was intelligent enough to ensure that the police elite was fattened with privileges. Similar immunities were showered on the lower judiciary and public prosecutors. For the CPI(M)'s hapless victim, lodging a FIR was a near impossibility, what to talk of securing justice through conviction. Thousands of ordinary people roamed the paddy fields and open streets as political refugees through three decades of Communist rule.

Every nation which suffers a spell of totalitarian rule must necessarily reinvent itself through a process of social reconciliation focused on putting its society back on legal rails. Mamata Banerjee's policy to bury the past should not confuse forgiveness with forgetting. Prosecuting Buddhadeb Bhattacharjee would be an appropriate way of making the

ordinary Bengali understand the might and awe of the rule of law And, if Buddhadeb is allowed to walk free, then there is a danger that with time, the crimes of Bengal's communist rulers would be reduced to a rumour. And we all know what happens to those who forget history.

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