

Evolving a comprehensive Anti-Corruption Strategy

Discussion Note for NAC
April 28 2011

Corruption affects the poor the most

- For the non-poor, who have voice and reach, corruption is an issue, but only selectively.
- Private sector and the middle class, benefit in net terms, from lax enforcement of rules and regulations
- It is only the poor who are victims, unremittingly, of corruption (on account of lack of resources to influence the corrupted).
- And since they are neither educated, organised, or powerful, the poor are unable to force the hand of policy makers favouring zero-tolerance to corruption.

NAC Agenda on Corruption?

- › Therefore NAC must be concerned with the larger agenda of corruption,
- › but with special focus on the experience, concerns and aspirations of the poor and disadvantaged

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UN Convention against Corruption, 2003

- › 140 countries have signed
- › India is *not* among them
- › Must sign - Would signal our resolve to deal with corruption up-front.

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Requires bringing our domestic laws in conformity with the Convention

- › Convention criminalises not only basic corruption such as bribery and the embezzlement of public funds but also trading in influence and the concealment, laundering of proceeds of corruption, and obstructing justice
- › Deals also with private sector corruption
- › Public servants subject to codes of conduct, requirements for financial and other disclosures and appropriate disciplinary measures.
- › Facilitating repatriation of black money stored in banks overseas
- › Also mandates countries to put in place certain preventive measures like enhanced transparency in funding election campaigns and political parties -- which is the fountainhead of a great deal of corruption.

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Some elements of a Domestic Agenda to Combat Corruption

- ☐ Preventive
- ☐ Punitive
- ☐ Promotional

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Preventive measures

- Measures to reduce opportunities for corruption
- by making systems
- transparent,
- increasing accountability,
- rationalizing procedures

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Specific sectoral reforms needed to prevent corruption include:

- Administrative Reforms
- Strengthening RTI and Social Audits
- Police Reforms
- Electoral Reforms
- Judicial Reforms
- Systems of Public Appointment

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Administrative Reforms

Objectives of Reforms:

- reduce delay
- demystify rules and procedures
- promote transparency
- consciously dismantling unnecessary areas of state control on citizen lives
- drastically reducing discretion
- forcing transparency in rules and procedures
- increasing citizen participation in decision making

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Many Commissions: No Action

- First Administrative Reforms Commission established in 1966, under Morarji Desai, to recommend reforms required in the Indian public administration system.
- In 2005, Veerapa Moily chaired Second Administrative Reforms Commissions. Made comprehensive recommendations on several issues in report titled 'Ethics in Governance'. Identified diverse range of systemic reforms including
 - promoting competition in awarding contracts
 - simplifying transactions
 - using information technology
 - reforming the civil services
 - integrity pacts
 - creating a vigilance network.

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And More...

Central Vigilance Commission proposed

- use of technology and automation of corruption prone processes
- replacing the current personnel system based on patronage to a merit-based professional non-partisan civil service
- promoting accessibility and responsiveness in the administration

However, no major action taken on major recommendations in these reports.

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Strengthening RTI and Social Audits:

- RTI most significant reform in public administration since Independence
- Imposed climate of transparency and accountability on public officials
- Strengthened hands of ordinary citizens to control and prevent corruption
- Further strengthening of this law, particularly of much wider pro-active disclosures by all departments, and bolstering social audit, would be significant administrative reforms to prevent corruption.
- Social audits should be built into all government functioning, and should become as pervasive and routine in government functioning as statutory audits
- Require strong mandatory transparency provisions where any person can at any point of the planning, implementation, or evaluation process ask questions and demand answers about the functioning of public authorities

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Police Reforms:

- ▶ As early as 1979 National Police Commission (NPC) was set up to recommend measures to reform policing
 - ▶ Produced eight reports and a Model Police Act
 - ▶ None of the recommendations were followed
 - ▶ In 1996, PIL filed in Supreme Court titled *Prakash Singh & Ors. v. Union of India*, to implement report of the NPC.
 - ▶ Subsequently, in 2008, a three member Monitoring Committee with a two- year mandate was set up.
- At date only 11 states have enacted fresh Police Acts

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Electoral Reforms

- ▶ Several committees have examined the issue of Electoral Reforms
- ▶ Main issues:
 - Criminalization of politics
 - Transparency in the financing of elections

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Judicial Reforms:

- › Doctrine of separation of powers requires independent judiciary
- › In light of corruption allegations against judges, necessary to initiate process of transparency and accountability in Judiciary
- › Issues include
 - › Appointment and removal
 - › Dealing with corruption charges
 - › Declaration of assets

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Pre-legislative consultation

- › Legislative process should be inclusive, widely consultative, open and transparent.
- › Genuine consultations carried out prior to drafting legislations, particularly laws that have a social impact.
- › National consultations enhance the acceptability of law, increase ownership, draw upon local cultural traditions and catalyze public debate on contentious issues.
- › Conducting public hearings, consultations, and inviting comments on a framework note, or draft legislation are ways to ensure public participation in the pre legislative process.
- › South Africa extensive public consultations for Constitution drafting a great model

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Transparent Public Appointments:

Measures for
corruption
procedures for
independent anti-corruption agency
Wider definition of Corruption as per UN convention
Stringent Punishment
Confiscation of assets acquired through illegal means
Declaration of property of government officials and having
assets disproportionate to their income

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Independent Grievance Redress Systems

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Punitive measures

- Measures involve minimising the incentives for propagating corruption through stringent penalties and speedy procedures for conviction.
- Independent Anti-Corruption agency
- Wider definition of Corruption as per UN convention
- Stringent Punishments
- Confiscation of assets acquired through illegal means
- Confiscation of property of government officials found having assets disproportionate to their income

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Promotional measures

- Education
- Media
- Democratic Reforms and Movements
- Social Reforms

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What should NAC do?

- Recommend to Government wide-ranging action as suggested in Note (based on an improved and edited Note)
- Stress particularly impact on the poor and disadvantaged

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What should NAC do?

Take up some specific agendas in conformity with NAC focus on disadvantaged groups.

These could be (Only illustrative list):

- Strengthening RTI, Transparency and Social Audits
- Administrative Reforms
- Police Reforms
- Pre-legislative Consultation
- Independent Public Appointments

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