

**While the Law Minister is pleading for 'corrupt businessmen', the Home Ministry is planning to crack down on the private sector. Clearly, there is a mismatch**



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Perhaps there is something magical about wealth that makes even those who are financially secure do the unthinkable so that they can gather some more of it. Possibly it is the fact that money begets social prestige that makes people want to accumulate more even when that does not even benefit themselves. How strange is it that a fool or a knave with riches should be treated with more respect by the world, than a good man, or a wise man in poverty!

Unfortunately, this state of affairs has made corruption and scams easy in our country. A large number of people in positions of authority never lose an opportunity to encash on their power. Even when the corrupt are caught, more corrupt people seamlessly take their place. Apart from politicians, even Government officials who are in a position to disburse favours have been caught by anti-corruption agencies. A day after the Uttar Pradesh Lokayukta recommended the dismissal of two State Cabinet Ministers on disproportionate assets cases, Chief Minister Mayawati dismissed her Secondary Education and Labour Minister on October 5. Earlier on the basis of the same Lokayukta report, Ms Mayawati had fired her Animal Husbandry Minister and Religious Endowment Minister. However, a very different approach was adopted by the Chief Minister of Delhi on the Lokayukta report that she had received.

In Goa, where the illegal mining of iron ore has recently come to light, the chairman of the Public Accounts Committee of Goa Assembly (since removed), Mr Manohar Parrikar, said that "the Chief Minister does not want to change the situation in the Mining Department and does not want to punish anyone who is guilty. A third person will infer that he is involved."

Mr Parrikar has held that the State's Mining Department, led by the Chief Minister since 2000, is responsible for illegal mining in Goa. "Of the 54 million tonnes of iron ore exported this year, 30 million tonnes were legal and the rest — more than 20 million tonnes — was illegal." He also said that there were details in the report that established a collusion between the Mines Department, the Indian Bureau of Mines, the Departments of Forest and Environment, the State Government of Goa and the mining companies. The former PAC chairman even noted that a mine that had got the environmental clearance in 2008 showed excess mining from old dumps. "How can there be dumps when the mine got the clearance only in 2008?"

In this context, it must be mentioned that the majority of members belonging to the ruling party did not sign Mr Parrikar's report — a repeat of the PAC report on the 2G Spectrum scam. Obviously, the ruling party does not wish to be seen in bad light. But let us forget about the corruption in high places. For now, take a look at the daily functioning of public servants, many of whom have literally become extortionist. If media reports are to be believed, last month a female Transport Officer in Uttar Pradesh beat a driver to death because he refused to pay her a bribe. In Chandigarh, the month before, a female DSP and her reader were arrested by the CBI for settling a complaint against one lakh rupees.

In 2010, a total of 1,303 Delhi Police officials were punished for their involvement in criminal cases and others with 474 low level constables topping the list of ignominy. This number is 18 times than the 2009 figure of 74 constables. Thirty-five policemen, including 23 constables and five head constables, were dismissed from service after they were found guilty of corruption last year. Official statistics show that only 74 personnel were punished in 2009, 102 in 2008 and 197 in 2007. Two Assistant Commissioners of Police were given minor punishment. A total of 145 inspectors and 112 sub-inspectors also faced action last year. To the credit of the police it must be said that most of the time the senior officials do take action on complaints.

Other departments, however, have been indifferent to the problem of corruption, if not exactly collusive. In the case of senior officials, we believe in token punishment rather than exemplary punishment.

Raising the issue of non-compliance of its recommendations, the Central Vigilance Commission has named the Department of Telecommunications, the Central Reserve Police Force and the Indian Railways as among the worst offenders. India has the lowest number of judges in ratio to its population. We have approximately 9.5 judges per million people whereas the global norms as well as the Law Commission of India has recommended at least 50 judges per million. Also, all high profile cases of corruption require extensive investigation, as in such cases, ill gotten money is stashed abroad in tax havens.

The Letter Rogatory is a formal communication sent by an Indian court to a foreign Government, where action is pending in that country's court, requesting the testimony of a witness residing within the jurisdiction of the foreign court or the collection of evidence. It is an important tool used by CBI, the Income Tax Department and the Enforcement Directorate to seek information from abroad. At present, it takes six to eight months to send it as a large number of Government Departments have to go through the needed paperwork.

The CVC, in its latest annual report, issued in September 2010, has asked the Government to empower the CBI to send its team of sleuths to any place outside the country and post special police officers in missions. It added that: "On a review of the existing procedure/methodology followed for investigations abroad, it is observed that the system requires certain improvements, both for speeding up the process and for delivering qualitative results."

The Government's approach to handling corruption in the country is confused, muddled and contradictory. This is despite Anna Hazare's popular anti-corruption movement and the large-scale public resentment against the malaise. No two wings of the Government seem to be working in unison. Instead, they are busy deflecting issues.

For instance, speaking to the media earlier this month, Union Minister for Law Salman Khurshid said: “What will affect the functioning of the Government is if other institutions do not understand the kind of political economy we are faced with today. What is needed to encourage growth and investment? If you lock up top businessmen, will investment come? When asked if he meant the judiciary while referring to ‘other institutions’, Mr Khurshid replied: “Yes, the judiciary is as important a player in the entire effort. Each of the three wings — judiciary, legislature and executive — has to understand the political economy and respond to it”. In other words, he pleaded that no businessman should be penalised for corruption.

The Union Ministry for Home Affairs, on the other hand, is all set to add a chapter to the Indian Penal Code to check corruption in the private sector. The rule applicable to malpractices in granting and securing of Government contracts will now be extended to private sector contracts once the new chapter is incorporated into the IPC. At present, the law is focussed exclusively on corruption within the Government and among public functionaries.

The move is a follow-up to the UN Convention against Corruption, recently ratified by India, that requires member states to address the supply side of corruption involving Government functionaries as well corrupt practices within the private sector. Mark Twain once said about the American Congress: “It could probably be shown by facts and figures that there is no distinctly native American criminal class except Congress.” It is for each one of us to assess how much of it is applicable to the Indian scenario.