

## Concept Note on the road ahead for India Rejuvenation Initiative (IRI)

India Rejuvenation Initiative (IRI) is a non-political forum of concerned citizens working for restoring probity in public life in the country. This forum came into being about a year back. In this paper an attempt has been made to explain the background and theoretical frame work in which decisions have been taken by IRI and map the road ahead.

### I. Background

Reports appearing in the media on a regular basis reveal the very poor rating of our country in the comity of nations on the Corruption Index. India figures at 70<sup>th</sup> position in the latest report of Transparency International. The *Transparency International 2006 Bribe Payers Index* ranks India as the Most Corrupt country with Indian exporters most willing to pay bribes to bag export orders! A recent report released by the Hong Kong based Political and Economic Risk Consultancy (PERC) has revealed that India is perceived as fifth most corrupt Asian economy by foreign businessmen.

The high cost of corruption and its impact on development scenario is well documented. World Bank estimates suggest the annual world wide bribery figure to be as high as US \$1000 billion per year. Indians pay over Rs.32000 crore per annum as bribes according to some estimates. It is well known that the adverse impact of corruption is most felt by ordinary citizens of the country, especially the poor.

According to a Study, Government loses about Rs.200,000 crore every year due to tax evasion. Studies also show that the country's growth rate could increase by 1.5 percent and Foreign Direct Investment (FDI) by 12 percent if corruption is reduced to levels prevailing in Scandinavian countries. It is thus evident that decline in standards of probity among public servants has high costs for the country and ordinary citizens.

It is estimated that over Rs.500,000 crore of public money is stashed away in secret foreign bank accounts of corrupt Indian public servants. Corrupt public servants appear to be ruling the roost, both in States as well as the Centre. Legal system is perceived to have become the hand maiden of the rich and anti-corruption agencies seem to develop cold feet in investigations against top corrupt public servants. Usually those convicted of corruption are only the lowly officers.

Recent happenings in Tamil Nadu, Punjab, Haryana, Uttar Pradesh, Bihar, Manipur and several other States of India where current and past Heads of Governments have come under a cloud and are also reportedly facing trial / inquiry for possessing assets disproportionate to their known sources of income along with several key bureaucrats like Chief Secretaries, senior civil servants etc. have only focused public attention on the growing cancer of corruption. It is rather unfortunate that the electorate has to select from not the 'good, better, best' but 'bad, worse, worst'!

### II. Theoretical Framework

Robert Klitgaard, a noted international consultant has briefly outlined the components of an 'Anti-Corruption Strategy', which are as under:

- **Punish some major offenders:** Government should begin with "frying the big fish" – few big tax evaders, a few big bribe givers and a few high level government bribe takers including those belonging to the ruling party so that the whole drive does not appear to be driven by political vendetta and for restoring credibility and legitimacy of Government and its anti-corruption strategy.
- **Involve the people in diagnosing corrupt systems:** Successful campaigns involve the people. If only they are consulted, citizens are fertile sources of information about where

corruption occurs. The mechanisms for consulting them include systematic client surveys, citizens' oversight bodies for public agencies, the involvement of professional organizations, call –in shows, etc.

- **Focus on prevention by repairing corrupt systems:** Successful anti-corruption efforts fix corrupt systems. They focus on prevention. Governments could select public servants, alter their incentives, collect information in order to raise the probabilities of corruption being detected and punished, change the relationship between public servants and clients and raise the moral costs of corruption.
- **Reform incentives:** Governments wishing to stop corruption must improve incentives for honest public servants.

### III. Strategy

**India Rejuvenation Initiative (IRI)** has held extensive deliberations on the subject. The strategy adopted by IRI can be broadly classified as embracing all four major components of 'anti-corruption' strategy advocated by Robert Klitgaard.

#### 1. Frying the Big Fish:

India Rejuvenation Initiative (IRI) has decided that in order to restore probity in public life, it is essential to focus on corruption in the top echelons of administration. IRI subscribes to the view that corruption flows from the top and accountability of 'top' public servants must be ensured. It is against this backdrop that IRI raised the demand of verification of assets through the 'Integrity Commission' as that is the best way to fry the big fish.

#### *Verification of assets*

IRI is of the view that the most effective way to do so is by focusing on 'outcome' of corruption (movable and immovable assets of public servants) rather than 'process' of corruption, i.e. flouting of Government Orders, rules etc. It is felt existing anti-corruption institutions have failed to effectively nail the corrupt public servants as it is very difficult to prove wrong doing through perusal of files and file notes. It will be easier to prove accumulation of assets (both movable and immovable) disproportionate to one's known sources of income.

Countries like Hong Kong and Singapore have set up anti-corruption agencies to coordinate a government-wide anti-corruption effort. Robert Klitgaard suggests that anti-corruption statutes may simultaneously (i) create an anti-corruption "czar" from among existing agencies (such as the CBI, Directorate of Revenue Intelligence, Intelligence Bureau, Vigilance Cells, Comptroller & Auditor General, prosecuting agencies etc.) and (ii) enable and require various kinds of coordinating mechanisms and oversight functions, to ensure that the different pieces of the effort are articulated and that the public has the ability to monitor what the anti-corruption effort entails.

#### *Integrity Commission*

The views on the Integrity Commission outlined by India Rejuvenation Initiative (IRI) in the letter addressed to the Hon'ble Prime Minister in August, 2006, are somewhat similar. Key points of the proposal are as under:

- Property returns of all public servants who occupied or are occupying high public office in government need to be verified in a "fast track manner".
- An Integrity Commission could be set up by Government of India at the National level.

- The Integrity Commission can adopt the simple method of verification by first making public the returns filed by the concerned public servants and then inviting the public to come out with whatever information they have regarding the assets possessed by the concerned individual.
- The Commission can also make discreet enquiries before making its findings public.
- All investigating agencies of Government like the CBI, Directorate of Revenue Intelligence, Economic Offences Wing, Intelligence Bureau, Vigilance Directorate, etc. to provide assistance to the Integrity Commission.
- Necessary action to be taken against those who are found to possess assets disproportionate to their known sources of income.

IRI also subscribes to the view that stringent action must be taken against 'top public servants' irrespective of whether they belong to the ruling party or not. It goes without saying that if only leaders of opposition parties are targeted, then anti-corruption action is easily tarnished as political vendetta and it soon loses credibility. It is for this reason that so far pronouncements of Central and State Governments regarding 'zero tolerance' of corruption have remained just that – mere pronouncements not matched by any concrete action! Hence, India Rejuvenation Initiative (IRI) suggested to Central Government that it should set up an Integrity Commission and focus on verification of assets. However, no action appears to be in the offing.

### ***Top public servants***

In such a scenario, it is important that IRI should think through the idea of verification of assets and place the idea in the public domain. The contours of the public campaign are slowly taking shape. Over the last few months, it has emerged in discussions that the category of 'top public servants' must include both the political executives as well as top bureaucrats. If all Union Cabinet Ministers, all Chief Ministers and Cabinet Ministers of State Governments, all Secretaries to Government of India including Cabinet Secretary, all Secretaries to State Governments including Chief Secretaries, all Joint Secretaries and above in Government of India, all Inspector Generals of Police including Director Generals of Police and all Heads of Public Sector Units with turn over of Rs.100 crore or more per annum are included in the list of 'top public servants', then their number is likely to be around 4000 or so. These public servants must be brought under the purview of the Integrity Commission.

### ***Composition of Integrity Commission***

At this stage, an important issue that crops up is regarding the composition of the Integrity Commission. Should the Integrity Commission be a single member body or a multi-member agency? Should this be set up under the Commissions of Inquiry Act or under some specific legislation passed by Parliament?

Answers to these queries are not easy. It may perhaps be a good idea to have a three member Integrity Commission comprising of a sitting or retired judge of the Supreme Court, a sitting or retired Comptroller & Auditor General and a noted member of civil society who has excellent anti-corruption credentials. The selection of members of the Integrity Commission may be made by the President of India in consultation with the Prime Minister, Vice President, Leader of Opposition and the Chief Justice of Supreme Court.

The proposed Integrity Commission (IC) could be set up under a specific law especially passed for this purpose. As in Hong Kong and Singapore, all investigative arms of Government ought to assist the Integrity Commission in discharging its functions. The Commission will scrutinize the property returns filed with Government as well as the Speaker. The IC will issue public notice seeking information of property held by top public servants. After scrutiny by IC, report will be furnished to Government of India and Government should take action within three months. All

cases of disagreement between Government of India and IC must be made public. All public servants with doubtful integrity must be weeded out. There must be provision for summary dismissal of corrupt bureaucrats and seizure of property perceived to be disproportionate to known sources of income by Government. The burden of proof to devolve on the erring public servant rather than the prosecution.

### **Accountability Commission**

Shri S.A.T. Rizvi, in a separate paper circulated to members for checking election of candidates possessing money and muscle power as public servants, has suggested the setting up of an 'Accountability Commission' as an institutional mechanism to ensure that MPs, MLAs, who are also public servants, have their assets verified even before / immediately after their election. This proposal takes care of elected representatives contributing about half the 'top' public servants proposed to be covered by the Integrity Commission.

## **2. Involvement of people in the anti-corruption campaign**

In order to mobilize public opinion, India Rejuvenation Initiative (IRI) will necessarily need to approach the public and seek public cooperation in the anti-corruption campaign. There are no two views on this issue. The question is how?

First, the idea has to be mooted in the public domain. So far, IRI has written to high dignitaries and requested them to take action. However, nothing much has happened despite passage of over nine months since the first letter was sent to the Prime Minister. Some of the letters were released to the Press and were reported. But the idea has not been cogently argued and views put forward by the IRI to the public at large. The web site of IRI has also not been adequately publicized. Hence, it is absolutely essential that without any further delay, following action is undertaken:

### **i. Letters to opinion makers**

IRI has written letters to about 65 individuals of repute – noted industrialists, industry groups like CII, FICCI, ASSOCHAM, top educationists, scientists seeking their support. This inter action needs to be carried forward. After the preliminary letter, we need to follow up with meetings individually or in groups so that there is exchange of ideas and the central idea finds more supporters.

### **ii. Articles in the mass media**

Articles on proposed 'Integrity Commission' need to be written and published in newspapers like 'Indian Express' and 'Dainik Jagran' & 'Hindustan'. So far only a few articles have been written but none on the ideas propounded in various letters written to high dignitaries.

### **iii. Periodic press conferences & appearances in electronic media**

Meetings of some prominent members of IRI with senior editors / journalists need to be organized at New Delhi. Members staying in Delhi /NCR may be requested to participate in the said meetings / media interaction.

### **iv. Networking with like-minded groups / organizations & evolution of Common Minimum Programme**

A decision to bring all individuals / groups / organizations who are working to combat corruption and enforce accountability on one platform to discuss the issue and work out a “common minimum programme” and a common strategy to take the problem head-on in the country has already been taken by IRI. For this purpose a meeting is proposed to be organized by IRI shortly.

**v. Seeking information from the public**

Ordinary citizens must be approached to provide information about the wrong doings and illegitimate assets amassed by identified public servants. This will be through a public appeal to be issued in newspapers. Posters, pamphlets, banners, folders, booklets will also need to be prepared and distributed among the public. Special attention could be paid to college and university students.

**vi. Using various civil society agencies for collecting information regarding ill-gotten assets of corrupt public servants**

IRI would also need to use the services of civil society agencies for collecting specific information regarding ill gotten assets of corrupt public servants. A beginning has been made by various organizations / NGOs / individuals coming together under Association for Democratic Reforms and scrutinizing the affidavits being filed by candidates. It may also be possible to utilize services of Market Research Agencies, retired Intelligence and police officers in this exercise.

**3. Systemic Improvements**

At the same time IRI has taken the view that it should deliberate upon and suggest systemic improvements to the appropriate authorities. So far, in this regard, IRI has taken the following initiatives:

***Filing of Property Returns & its scrutiny***

IRI noted in its deliberations that there is an existing system of filing of property returns for public servants including MPs and MLAs. All MPs and MLAs are required to file their property returns every year to the Speaker but hardly ten percent of legislators comply with the aforesaid provision. There is no provision for penal action against defaulters. The recent initiative of the Election Commission of India to make all candidates file their property returns at the time of filing nominations and its posting on web site is not followed by any further investigation by any arm of Government. There is no penalty for filing incorrect or incomplete information in the affidavit. Likewise, All India Service Officers are required to file Annual Property returns but this pertains only to immovable property. Investments in shares/bonds/debentures, fixed deposits are not covered in the present system of Annual Property Returns. There is also no system of public disclosure of property returns. There is no system in place to check if public servants flout AIS Conduct Rules. Income Tax department is concerned only with tax evasion and not whether public servant is holding property disproportionate to his known sources of income.

Against this backdrop, IRI has written to the Cabinet Secretary and the Chairman of the Second Administrative Reforms Commission that the system of filing property returns by officers of All India Services and their scrutiny should be suitably amended to include, inter alia, the following:

- Annual filing of returns of all assets (both movable and immovable)
- Form for filing property return could be similar to the one prescribed by the Election Commission for candidates with certain changes (draft form attached)

- Compulsory scrutiny of property returns by the Vigilance Officer in each Ministry / Department
- In case substantial changes are noticed by the Vigilance Officer, a copy of the property return could be forwarded to the Income Tax Department for further scrutiny and in cases where the Vigilance Officer notices 'extra-ordinary' changes, the same will be forwarded to the Income Tax, Chief Vigilance Commissioner and the like for further detailed scrutiny and action.
- All Vigilance Officers to send report to CVC including conclusion of further enquiry by Income Tax and other agencies.
- Annual property returns of all AIS officers should be put in the public domain – posted on the web site.

Shri Julio Ribeiro has written in a recent article that senior officials were making a fast buck by selling flats built on land given by Government to Housing Societies founded by IAS and IPS officers at nominal prices and cited an instance where a flat on Worli Seaface purchased for Rs.3.15 lakh in 1985 was sold by a retired DGP of Maharashtra to the son of a retired Police Commissioner for Rs.3.15 crore! He has argued that good governance demands transparency, particularly from its senior officials and demanded that all property returns filed by IAS and IPS officers should be placed on a web site so that anyone who wishes to challenge the facts can do so.

### **Abolition of MPLADS & MLACDS**

IRI has also addressed letters to the Prime Minister, Speaker of Lok Sabha, Chairman of Rajya Sabha, Leader of Opposition & Chairperson of UPA on the issue of abolition of MPLADS & MLACDS. IRI has expressed the view that MPLADS and MLACDS must be immediately abolished as they undermine the constitutional notion of separation of powers and distort the role of elected representatives. If the underlying rationale for MPLADS and MLALADS is accepted then a question mark is placed over all other Government spending; norms give way to personal discretion and feudal notion of patronage occupies centre stage. These tend to weaken the democratic structure of the country. IRI has demanded that funds released through abolition of the aforesaid schemes should be transferred to the urban local bodies and Panchayati Raj institutions (PRIs) as it will substantially increase the cash transfers to urban and rural PRIs and strengthen grass root democracy as per constitutional provisions. It will also substantially reduce heartburning among the constituents of a Parliamentary or Assembly constituency and restore focus on the role of legislators in Parliament and State Assemblies besides removing the taint of corruption from the fair faces of legislators.

### **Appointments in the Judiciary**

IRI has also deliberated on the issue of appointment of 'tainted' persons: persons with questionable reputation or those who do not enjoy good reputation - in higher judiciary. A letter had been addressed to the Chief Justice of India in a specific case and it is proposed to write to the President of India too on the issue. IRI believes that people have very high expectations from the judiciary and many see it as the last hope for Indian democracy. Hence, care should be taken to keep public faith in high judiciary intact.

### **Strengthening of Institutions: CBI, CVC**

IRI has also constituted a sub group to study the working of CBI and suggest remedies, if any. Likewise, discussions have been held on ways and means to strengthen the institution of CVC. Once deliberations are completed, IRI would be sending its views to appropriate authorities.

## **Electoral Reforms: Accountability Commission**

Shri S.A.T.Rizvi has made certain suggestions on ways and means to check money and muscle power in elections and the same has been circulated to all members. Once deliberations are completed, the same may be taken up with appropriate authorities and placed in public domain so as to initiate public debate. In the recently concluded elections to Uttar Pradesh Assembly, about 60 MLAs with criminal antecedents are reported to have been elected.

## **Sanction for Prosecution**

At present, prior permission of Government is required for initiating action against top public servants – permission under Section 197 Cr.P.C. A recent judgment of the Supreme Court in December 2006 has held that public servants can be prosecuted without the mandatory government sanction for criminal acts, including corruption. The verdict takes away the immunity provided under Section 19 (1) of the Prevention of Corruption Act and Section 197 of the Code of Criminal Procedure which requires grant of sanction by appropriate authority to prosecute public servants in criminal cases, including corruption. So far only Lokayukta of Karnataka has decided to file charge sheet in several cases where formal sanction for prosecution was not forthcoming from the State Government. It will be interesting to see what stand the Courts take in such matters. This is another area where IRI may deliberate and take appropriate action.

## **4. Reform Incentives**

IRI has taken the position that honest officers must be supported and steps taken to prevent 'tainted' officers from occupying key sensitive positions in Government. In pursuance to this decision, IRI has decided to write letters to State Governments and Government of India regarding verification of assets of identified tainted IAS and IPS officers belonging to different State cadres. The process of identification of such officers is underway.

## **IV. Way Forward**

From the aforesaid analysis, it is evident that the way forward for India Rejuvenation Initiative (IRI) could be as under:

### ***As an 'advocacy group'***

- Given its composition, the greatest strength of IRI is the credibility of its members and the insight that they possess.
- IRI will need to adopt a multi-pronged approach as the goal of 'promoting probity in public life' is such that a uni-dimensional approach will not work. So far, IRI has been working on that approach.
- Think and voice ideas required to promote probity in public life.
- Issues raised by IRI will need to be firmly placed in the public domain and public debate initiated. Members will need to write, speak, discuss, and debate the same individually as well as in groups. Articles will need to be written and published in the media. IRI will also need to publish these articles in large numbers for distribution among students.
- Publication of pamphlets, brochures, booklets, monographs by IRI.

### ***As an 'activist group'***

- Exerting moral pressure on those who matter such as Prime Minister, Chief Justice of India, Speaker, President of India etc.
- Target educational institutions for propagating our views and creating awareness among youth

- Filing PILs in High Courts and Supreme Court
- Identify public servants with 'tainted' reputations and write to Government for verification of their assets
- Issue focused public appeal at an appropriate time with a clear goal
- Set up units at State / District level with mandate to take up locally relevant issues apart from launching public campaign on selected issues
- In case there is no response from Government, IRI may at a later stage be required to think about constituting a 'Civil Society Integrity Commission' with a view to put pressure on Government.

### **Identification of 100 'top' public servants**

In the last meeting it had been decided to issue a focused public appeal for collecting information regarding the ill gotten assets of 100 identified top public servants.

Who are these 100 top public servants? How are they to be identified? Can there be a purely 'objective' method for identification? The general consensus was that IRI cannot get bogged down in technicalities and that there would always be an element of 'subjectivity' in identification of 100 'top' public servants. However, if there is unanimity among the members on the list, then one should go ahead with the same. It was felt that efforts should be made to remove the mask of 'respectability' from the faces of the corrupt 'top' public servants as that was an important first step in the task of restoring probity in public life.

In fact, there is no getting away from the fact that ultimately there must be an institutional arrangement and identified category of public servants must be made to obtain clearance from 'Integrity Commission' before they are declared suitable for holding key, sensitive positions in Government. The 'Accountability Commission' proposed by Shri Rizvi and Integrity Commission are complementary

### **Modus operandi for collection of information**

IRI will need to collect information regarding their ill-gotten assets. This will have to be done discreetly.

### **Proposed course of action after data has been collected and analyzed**

Once data has been collected and analyzed, IRI will have the following options:

- a. Write to concerned authorities with evidence for action
- b. If no action is taken, then approach the Courts
- c. Place full facts before the public and start a public campaign

### **Conclusion**

The challenge before IRI is to strike a balance between being an 'advocacy' group and being an 'activist' group. Mere advocacy may not suffice. Public mood is in favour of probity in public life. IRI has to decide when, how and how much public support it requires and accordingly take action. It must be remembered that lot of preparatory work will need to be done before desired results can be obtained. This would involve mobilization of men, material and funds.

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