

The India Rejuvenation Initiative (IRI) has advocated the setting up of an “**Integrity Commission**” to combat the extensive and deep rooted malaise of corruption among the high public offices (including Government servants and political appointees/elected offices). To quote from the letter of the IRI addressed to the Prime Minister in August 2006, “.... The idea of setting up an Integrity Commission is to verify returns of all those who occupied or are occupying high public office in Government in a fast track manner By focusing on verification of returns filed by public servants it is proposed to focus on the outcome of corruption (assets – both moveable and immovable) rather than the process of corruption.....”

One should be able to anticipate a double groan of skepticism at the proposal. The first groan states: ‘What magic wand can a new Commission wave? Are there any less number of commissions and institutions that a new one is required? What about the State Vigilance Boards and the Central Vigilance Commission? The second groan would formulate the following question: Who will man the new Commission? How can you ensure its success when earlier efforts have failed miserably?’

There is a need to address these questions even when they are accompanied by skeptical groans.

The case for an **Integrity Commission** (IC henceforth) is based on the following two premises:

First: There exists no direct (and therefore simple) mechanism in the vast maze of Government regulations today that enjoins, encourages or directs a Government functionary or authority to probe the assets of public servants. The measures that exist are, at best, indirect, derivative and consequential.

Second: The simplest and the ‘easiest to catch’ nexus that exists between a public servant and corruption is the range and value of assets owned by him and his family/associates network and the manner/source of their acquisition.

We propose now to discuss these premises in some detail.

The submission of ‘annual property returns’ (basically relating to immovable property) for Government officers is primarily mandated by the Conduct Rules. As an example, we take the IAS Conduct Rules. The salient features are as follows:-

- (i) Annual returns are prescribed (along with a format) for immovable property. Details of property held by family members are required to be given only if they are acquired out of the income or earnings of the concerned officer. Obviously, there cannot be a mention of *benami* assets or those held by relatives/business associates in which the officer may have controlling (but unwritten) interest.
- (ii) There are old, quite anachronistic and perhaps impractical to implement rules relating to informing and obtaining sanction when family members get employment in a private undertaking having dealings with the Government.
- (iii) There are old, outdated rules relating to informing Government (and sometimes obtaining sanction) in respect of transactions relating to moveable properties. The lower limit prescribed is Rs.15,000 and the items mentioned include post office/time deposits, insurance premium and horses (besides, of course, some standard items like car, shares, debentures etc.). Obviously, these rules have to be re-thought and re-written.

- (iv) Interestingly, most clarifications and circulars on the subject belong to the decades of the 60's and 70's. After that there has been an enigmatic silence on the subject.
- (v) It is not clear at all what is done with this incomplete and outdated set of information. The Department of Personnel and Training in the Government of India is the repository of the documents and who can access/does access these documents is wholly opaque.

Clearly, therefore, the provisions of the Conduct Rules in this regard are outdated and applied passively.

The Central Vigilance Commission (CVC) and the State Vigilance Bodies are responsible for integrity issues relating to public servants. There is only one direct reference to property returns on the CVC web site. In the chapter on functions and powers of the Chief Vigilance Officers (CVO's), one of the functions stated is: 'To ensure prompt observance of conduct rules relating to integrity of the officers like - Annual Property Returns, gifts accepted, benami transactions etc.....'

The key question then is how the CVC, the SVC's and other anti corruption/investigative agencies (e.g. CBI, State CID, Anti Corruption Bureaus etc.) respond to and deal with issues relating to verification of assets of public functionaries. Specifically: (i) are the annual returns or assets probed as a rule on a suo motto basis? (ii) Is there a random sample check? Or a compulsory check for higher/sensitive positions? If so, how do the agencies coordinate or share information/documents? As always, agencies acquire a tradition of work which then becomes the normative framework. The CVO's determine the boundaries of their functions on the basis of the burden of traditions. This process is inherent in all bureaucratic institutions and anti corruption agencies are no exception.

One can delineate these traditions on the basis of outcomes that we see around us. We are aware that the CBI and the State anti corruption vigilance units probe cases referred famously as "assets disproportionate to known sources of income" cases. The following points require to be noted:

- (i) These cases usually arise as a consequence or by product of a specific matter (a purchase, a tender, some decision) being probed.
- (ii) These cases arise as a consequence of a specific complaint on which a vigilance inquiry/CBI or other investigation is formally launched.
- (iii) These cases arise in connection with some disciplinary proceedings.

The probe (or verification) of assets is therefore episodic, incidental and consequential. Instead, the anti corruption agencies are designed to focus their attention on particular instances, complaints, controversial decisions or processes.

There are two distinct components or aspects of corrupt practices. The first is the dubious or incorrect (or illegal) process or decision that triggers the illegal gratification. The second is the gratification itself. The contention is that an efficient method of tackling corruption is to focus on the gratification itself. And it is this that gives credence to the idea of an Integrity Commission.

An inherent property of bureaucratic process is that the best way to highlight and focus on an object is to establish an institutional mechanism exclusively for that object. The particular institution then becomes the jealous guardian of that object and serves to highlight and create focus on its domain. A recent, excellent example of this is the RTI law and the office of the CIC.

An Integrity Commission created solely for the scrutiny of property returns will exactly serve this purpose. It will do exactly what the existing institutions are neither designed nor mandated to focus upon: verification and scrutiny of the property returns of senior public functionaries.

It is not difficult to design the structure, objects and functions of such an Integrity Commission (IC)

Here is a preliminary, illustrative eleven point list:

- (i) In the first instance, the IC should be mandated to carry out a scrutiny of the immovable and major movable assets (in the name of self, family and benami) of all 'top' public servants of the Central and State Governments.
- (ii) Public servants will include both political executives and top bureaucrats. To begin with, IC should focus on Prime Minister, Central Cabinet Ministers, Chief Ministers and State Cabinet Ministers, Secretaries to Government of India, Chief Secretaries in State Governments, Director Generals of Police – Central Para Military Forces as well as State Police; top most functionaries of Revenue Departments, i.e. Income Tax, Central Excise, Customs, Trade Tax, State Excise, Stamp & Registration etc. at Central and State Government levels.
- (iii) Officers of the rank of Joint Secretary and above may also be covered and coverage should extend to Government owned enterprise (above a minimum turnover) also.
- (iv) Let the IC have statutory powers to call upon and receive documents from all available and existing sources: the employer, vigilance bodies, investigating bodies, tax department, banks and so on.
- (v) Let the IC conduct a first scrutiny and develop a list of possible offenders that require further scrutiny and follow up. For this purpose, the IC may ask for returns and further details from the concerned persons. The IC may also receive evidence and documents from the public.
- (vi) The list can then be further pruned and then the IC may call for further investigations from any of the empowered Government investigating agencies.
- (vii) Once the IC concludes its scrutiny, it should submit its findings in each case to the Government for punitive action.
- (viii) The IC may carry out such scrutiny in cycles of every two years.
- (ix) Punitive action should be backed by a law on confiscation of illegally acquired assets.

- (x) Postings in important and key positions should take into account the findings of the IC regarding the concerned candidates.
- (xi) The IC must carry out its functions in a transparent manner and it should have the powers to make its findings and documents public.

The Integrity Commission will function on the lines of the Independent Commission set up in Hongkong which has succeeded in virtually eliminating corruption in a short period of ten years.

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