CHAPTER III

ATTITUDE OF PEOPLE TOWARDS CORRUPTION
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Reactions And Responses:

It is very much essential to create a social climate both among public servants and in the general public in which bribery and corruption may not flourish. In the long run, the fight against corruption will succeed only to the extent to which a favourable social climate is created. When such social climate is created and people deter corrupt practices and the public servants and social controls becomes effective, other administrative, disciplinary and punitive measures may become unimportant and may be relaxed and reduced to a minimum. There is a large consensus of opinion on the visible cause of corruption that a new tradition of integrity can be established only if the example is set by those who have the ultimate responsibility for the governance of India, namely the Ministers of the Central and State Governments. It is very difficult to achieve this objective under the prevailing climate of the environment where the morality of public servants and public representatives has been degrading.
There is a widespread impression that failure of integrity is not uncommon among ministers and that some ministers who have held office during last three decades of independence have enriched themselves illegitimately, obtained good jobs for their sons, daughters and relations through favouritism and nepotism, and have reaped other advantages inconsistent with any notion of purity in public life.

Next to the ministers, the integrity of members of Parliament and of legislatures in the States will be a great factor in creating a favourable social climate against corruption. In an environment where a nexus between politicians and public developed in the form of a direct relationship between the money contributed and the favour granted in the process of collecting funds for political parties, nobody can stop the advance of corruption. The public belief in the prevalence of corruption at high political levels has been strengthened by the manner in which funds are collected by political parties, especially at the time of elections. Such suspicions attach not only to the ruling party, but also to all parties as often the opposition can also support private vested interests. According to the assessment made by
Sri N.K. Nenru, ex-Governor of many states in India, in one particular state not less than thirty percent of the legislatures were involved in criminal cases.

The principles of democracy clearly indicates that, the force behind the laws in democracy is the opinion of the common Man. But, the people in India seems not so much conscious to grow strong opinion against laws and corruption as in other advanced countries in this respect such as U.S.A., U.K. etc. In spite of the various laws aimed at prevention of profiteering, undeserved incomes reached the hands of businessmen, professionals and servicemen. Although the system should be geared to allow only due incomes to different sections of people, yet secondary efforts have to be made to achieve the object by the system of direct taxation. The main current of opinion has placed much reliance on them for the purpose of rationalising disparities in individual incomes and wealths. Hence the process of taxation involves effectuation of economic justice.

Since the publication of the Wanchoo Committee report on 24th December, 1971, "Black Money", "Parallel Economy" and "Unaccounted Incomes and Wealth" have been a matter of continuous discussion at both
political and economic levels and at academic as well as popular gatherings. Inspite of Government's commitment to eradicate the problem of black money, the menace of black money not only remain, but also goes on assuming bigger and bigger proportions, posing grave dangers to the country's economy, polity and socio-cultural life. One of the worst consequences of black money and tax evasion is that their pernicious effect on the general moral fibre of society. They put integrity at a discount and place a premium on vulgar and ostentatious display of wealth. Many of the newly rich who enjoy material prosperity and social prestige owe their existence really to anti-social activities.  

Corrupt officers are extremely intelligent and know the art of pleasing their bosses and people around them. There are no complaints against such clever officers. In such cases the vigilence officers should initiate suo moto action without waiting for a complaint. Corruption is an old disease. Its eradication is not easy, but it can certainly be minimised by removing public apathy, creating strong public  

9. Chandra, M. (1979) : Socio-Economic Crimes ; p.60
opinion against it, and educating the younger generation about the evils of corruption and virtues of honesty. A smuggler, a black marketer, a hoarder, a mafia gangster, may even a decoit becomes respectable and is accepted by society once he becomes a businessman, a manufacturer, a builder, a film producer, a hotel owner and so on. Politics brings wealth and with money you can cut a niche for yourself in public life. Sandhiji hoped that the pressure of public opinion would curb the tendency of the trading classes to profit out of mass misery. But, in reality such type of public opinion had not been created. The impact of the Gandhian era lasted several years after independence. Even the slightest manifestation of corruption and greed disturbed the followers. It is also true that, the sons and daughters, the grand sons and grand daughters of renowned freedom fighters and their wives and husbands who have reacted sharply against the austerity and self denial of their elders, dead or alive. To fight the corrupt situation of India to-day, it is necessary to

organise public opinion, especially among the exploited majority to rise against corruption and its practitioners.\textsuperscript{12} It is a question of educating the voter and strengthening his or her will to register resentment.\textsuperscript{13}

The issue of economic justice in India has from the time of independence invoked sufficient amount of public opinion and there exists in post independent India an appreciable number of laws dealing either directly or a little indirectly with issues. The issues have occupied a cardinal position in the opinion conflicts of the country. The majority of the poor do not know that economic injustice is being done to them under the present system of economic exploitation.

It is well known that black money breeds more black money at an exponential rate and reaches new areas. This subverts the processes of earning an honest and decent living by the majority of our people through inflation, misdirection of investment etc. just as it lines the pockets of a small fraction of society. The gravity of the problem must be realised by the Government as well as by the general public, for its —


eradication process. The public expressions appeared in medias so far concentrated mainly on estimating the extent of black incomes and the nature of exploitation, and thereby the concept of the problem remains vague and ambiguous on public record. Any scheme of the Government implemented against black money must be understood by the majority of population for its effectiveness. The emphasis on direct taxes has been increasing day by day as effective measures to unearth black money and prevent its proliferation through further evasion. A lot of publicity has been done to encourage people to give taxes in due time. The majority of population does not however understand the implication of modern taxes. In such cases, it cannot be said that these laws are the result of public opinion. That is why the tax evaders continue to enjoy a good status, among the poor, for the purpose of whom taxes are imposed in the final analysis.14 Direct taxes administration Inquiry Committee set up by the central Government invited opinion of the public on the issues under

consideration. Such Committees, which often precede legislation, afford an opportunity to affected sections of society to articulate their views. The Committee suggested inter alia, that names of defaulters should be publicised, evidence in respect of wealth and income submitted by an assessee should be allowed to be used by any party, against the submitting party, all assessees should be required to furnish statements of their total assets after each interval of four years, so that any unaccounted addition may be caught. Direct taxes, particularly income tax has started attracting greater attention of the general public. 'Black Money' has become an accepted fact of social life. Reaction of the people to such measures is mixed. While some criticise the Government for being slack in implementation of these laws, others consider them an unwarranted burden. However, the majority of the masses remains blissfully ignorant of all these phenomenon. Tradesmen organisations have often called for total withdrawal of direct taxes, as they yield only three percent of the total revenue receipts of the central government and involve much expenditure. 15 In the race

15. Indrayan, ...K. (1985) : Law And Public Opinion In India ; p.182
between the tax collector and tax payer, the tax payer has always run ahead and has always succeeded in dodging the tax collector. The tax payer has often sneaked through loopholes in law with the advice of tax consultants, and legislature has done much legislation in vain. There seems to be no apparent reason due to which exemption is granted to the ex-rulers on the annual value of a palace. This shows how sometimes a counter-current of opinion may manage to influence legislation.

It was the feeling of many people that huge amounts of unaccounted incomes may be kept in the form of big denomination notes, that is one thousand rupees, five thousand rupees, ten thousand rupees and twenty thousand rupees. The idea of demonetising high denomination notes of rupees one thousand and onwards was put to test in 1978 by the Janata Government with its high popularity. The measure received wide public applause, but it was able to unearth only a small fraction of estimated black money. Now, mass opinion in favour of demonetisation of hundred rupee notes received attention. Thus direct tax legislation

is affecting more and more public and generating more and more opinion. On the other hand, it is undergoing constant changes to respond to changed social circumstances. The fact that it does not influence rural masses and general masses directly, keeps the sphere of its impact comparatively small. The increasing concern of the public about tax evasion has led to the appointment of Choksi Committee to go into the working of tax laws. The report submitted by Choksi Committee advocated maintenance of present rate of tax.

On the basis of public opinion generated in the country, Company Act of 1956 was passed. The Act contained many provisions to effectuate socio-economic change in line with the aspirations of the people. The main problem in this field was concentration of large sources of income in the hands of a few entrepreneurs have arranged to become chief beneficiaries of corporate system in the country. Many persons in the ruling party were in favour of drastic changes in the Company Act to avoid concentration of wealth and income in the hands of a few. Many provisions were introduced in the Company Act of 1956 for this purpose. No person can now become a managing director of more than two companies at a time according to
Section 316 of the Indian Companies Act, 1956.

The popular sentiment of people against corruption has been responded by the Supreme Court of India while deciding such cases. Provisions in taxing statutes designed to prevent evasion of tax have been upheld as reasonable restrictions on the rights of citizens under Art. 19(1)(f) and (2) as being in the interest of general public. Thus Ss. 16(3)(a)(i) and (ii) of the income tax Act, 1961, which imposed a tax in respect of the income earned by his wife and minor child in partnership business, was reasonable, as it was designed to prevent evasion of tax by carrying on business nominally in the name of a wife and minor child.\textsuperscript{17} Similarly, the provision of the Wealth Tax Act, 1957, refusing to recognise a transfer in favour of a wife and minor children living with the assesssee where such transfer was not for adequate consideration was upheld as designed to prevent large scale evasion of tax.\textsuperscript{18}

In Assam, public response in creating opinion against corruption seems negligible. Corrupt practices by dishonest officials and other personnel have


been going on without any resistance. Several such cases detected by Anti-Corruption departments and agencies ultimately failed at certain levels either due to delay in taking action as per procedure or due to undue favour granted by administration.

Redressal:

While it is possible to deal quickly with some forms of corruption, it is in general a long-term problem which requires firm resolve and persistent endeavour for many years to come. Unremitting vigilance is needed to anticipate or at least to spot them as soon as they emerge, and deal with them promptly.\(^1\)

Law relating to corruption among public servants has been dealt with in several Acts. Prevention of Corruption Act, 1947 as well as Section 161 to 165-A of Chapter IX of the Indian Penal Code, 1860 provided the more effective prevention of bribery and corruption; while criminal law amendment Act, 1952 enabled a speedier mode for the trial of the offences under the Act of II of 1947 and Section 161 to 165-A, of IPC. There

\(^{19}\) Committee on Prevention Of Corruption (1964) p. 110.
were also provisions in the criminal Law Amendment ordinance, 1944 to enable attachment of ill-gotten wealth obtained through corrupt means. Now all these provisions have been incorporated in The Prevention of Corruption Act, 1988. In The Prevention of Corruption Act, 1988, apart from consolidating the law on the subject the scope of the definition of the expression "Public Servant" has been widened; penalties provided for the offences have been enhanced; finally has been attached to the order of the trial court upholding the grant of sanction; provisions for day to day trial of cases and prohibitory provisions with regard to grant of stay and exercise of powers of revision on interlocutory orders have also been included.

Corruption is still rampant amongst public servants and there has been enormous increase in bribery and corruption. Thus it is still a great menace to the society. The Prevention of Corruption Act, aims at eradication of this great social evil. But, the cases of bribery and corruption have been fast increasing and polluted the environment of the present day society. So, speedy redressal of such anti-social elements becomes a dire need of the day. Redressal of corrupt public servants with effective implementation of available laws becomes difficult under the prevailing circumstances.
Several factors contributed to this problem. At times the members of the community themselves knowingly or unknowingly contribute to the commission of this white collar criminality. Illegal gratifications to public servants and black marketing are some of the common examples where 'victims' of the crimes are also to be blamed for corruption. In fact such crimes cannot be committed unless there are two parties viz. giver and taker are present. The high socio-economic status of corrupt officials also creates problem for redressal. They belong to an influential group which is powerful enough to handle their occupation tactfully and the persons affected thereby hardly know that they are victimised. The public in general is also somewhat apathetic to such crimes. Thus causing obstruction for prosecution and punishment of such criminals. It is often alleged that the criminal law administrators and judges also belong to upper strata of the society and therefore they generally sympathetic towards white collar criminals while dealing with them. Corrupt public servants' close contacts with

agencies of social control on account of their social status and privileged positions also creates difficulty for prosecutions and law makers to take appropriate action against them. Many a times these criminals even control the press and are quite friendly with the public and the top ranking public officials. Moreover, the impact of white collar crime falls on such a large number of people that it does not aggrate the feelings of one single individual.21

In the primitive and medieval societies only few authorities existed to collect taxes, administration of justice or other purposes did not act according to any definite written laws or rules, but largely at their discretion subject to good conscience and equity and directives from the higher authorities. The modern conception of integrity of public servants in the sense that they should not use their official position to obtain any kind of financial or other advantage for themselves, their families or friends is due to the development of the rule of law and the evolution of a large, permanent public service. For the redressal of

corrupt public servants disciplinary Rules are available. The Prevention of Corruption Act, 1947 which has amended in 1988 provides ample power to the government for redressal of delinquent officials and their accomplices. The Supreme Court of India as well as the High Courts of States decided lots of corruption cases imposing penalties as per provisions of relevant sections and sub-sections of the Prevention of Corruption Act, 1947 and 1988. Prompt decisions of corruption cases in courts is an essential criteria for effective implementation of the provisions of the Act. Delay in taking decisions of such cases may be accounted as a limit of successful prosecution. There are also other limits causing failure in litigations. In analysing case laws we find some legislative requirement of sanction for prosecution. The case of R.C. Nayak - V - A.R. Antulay22 may be taken as an example of such cases. For the offence under Sec. 11 of the Act, the essential ingredients, as observed by Honourable Justice Ranganath Misra in R.C.Nayak - V - A.R.Antulay are:

1. That the accused was a public servant.
2. that he accepted or obtained or agreed to accept

22. R.C.Nayak - V - A.R.Antulay (1964); 23cc,183
or obtain a valuable thing without consideration or for an inadequate consideration knowing it to be inadequate.

3. that the person giving the thing must be a person concerned or interested in or related to the person concerned in any proceeding or business transacted or about to be transacted by the government servant or having any connection with the official functions of himself or of any public servant to whom he is subordinate and

4. the accused must have knowledge that the person giving the thing is so concerned or interested or related.

Under many circumstances, the existence of ingredients of the offence in question are difficult to prove in litigation. The procedural lapses of the prosecution as well as the delay in taking recourse creates complications in succeeding the prosecution. Special Judges and Magistrates have been notified for the trial of Special Police Establishment cases in all States excepting one in which such notifications are issued individually for each case. This causes delay in the finalisation of Charge-sheets and in the commencement of trials. Existing arrangement of entrusting
responsibilities on the State government advocates to look after Special Police Establishment cases in the High Court is not proved satisfactory according to the findings of the Santhanam Committee on Prevention of Corruption.

Delay in conducting departmental or disciplinary proceedings also caused a limitation in succeeding prosecution. These delays are undesirable from every point of view. The deterrent effect of punishment may be defited due to such delay in proceedings. Procedural mistake and delay in taking actions in the departmental cases of corruption are the common features in Assam which is the major causes of defiting the objective of the Prevention of Corruption Act, 1947.