

Talk at National Police Academy, Hyderabad

(by Shri Pradeep Kumkar, CVC on 24.08.2011)

Greetings/Address

I take great pleasure in being amidst you in this Academy to interact and talk about ethics in governance.

2. I am delighted to be here with you at the National Police Academy and to interact with the officers of 2009 Batch. I had joined the Mussoorie Academy in 1972. We are separated by a generation. Much has changed in India since the time when I had joined as a Sub Divisional Magistrate in Gurgaon in Haryana. Gurgaon in 1974 was a small sleepy district town with hardly any industry. Now it has become one of the fastest growing towns in the National Capital Region with a population of more than a million, with an industrial hub, an IT and software powerhouse, home to Maruti, gleaming malls and multi-rise modern housing apartments.

3. In a sense, Gurgaon epitomises the change that has taken place in many parts of our country. We have moved from a Licence Permit Raj Command Economy to a more liberal and open economy. From a Hindu rate of growth of around 3 per cent, as Prof. Raj Krishna famously said, we have become the second fastest growing economy in the world. In many sectors of the economy, like, IT and software, India is a force to reckon with. Indian entrepreneurship and business acumen is widely admired globally. India has now a burgeoning middle class. It is also rapidly urbanising with the share of agriculture in the national income

declining, and of services and manufacturing rising. The communications are vastly improved. There is a revolution in telephony. Air travel has become much easier and more accessible. The media, both print and electronic, is far more intrusive and aggressive. The right to information has empowered the citizens. There is greater emphasis on transparency, openness and accountability. But we all are aware that in many ways India still remains the same. There is still widespread poverty, pockets of acute deprivation, hunger, malnutrition, gross inequality and injustice which put us to shame. Corruption is widespread and all pervasive. The courts remain clogged and delivery of justice takes an unduly long time. Honesty and integrity in public life, efficient delivery of public services, good governance remain a key determinant to national development.

4. India has seen vast economic growth in the last two decades and today the Indian economy is the fourth largest in terms of purchasing power parity. This progress is no small measure supported by the presence of a sound and fair institutional framework which includes strong and independent judiciary, oversight and regulatory bodies like CAG and RBI and a free and vibrant media.

5. The irony of present state of affairs is reflected by the fact that though India is rated higher in some of the advanced sectors and in terms of some of the advanced competitiveness indicators, it is lagging in terms of the basic requirements like infrastructure, health and primary education. According to the Global Competitiveness Index for 2010-11 brought out by the World Economic Forum, the comparative advantage

of India arising due to its institutional framework is eroded by weaknesses like corruption, burden of excessive Government regulations, business cost of crime, violence and terrorism; organised crime and reliability of police services . In terms of reliability of police services, we have been ranked 68th among 139 countries which implies that about half of the countries are able to provide better police services¹. Corruption is rated as the 2nd most problematic factor for doing business in India, the first being inadequate infrastructure². India is ranked 87th out of 178 in the corruption perception index, which means there are 87 countries which are less corrupt than India³.

6. The rapid economic growth, globalization and greater awareness due to developments in media and information technology have increased the expectations of people and if the quality of governance does not match up, it results in increased levels of dissatisfaction which if left unaddressed gives rise to a sense of alienation. This anger then finds a vent in antinational activities like communal riots, naxalism, terrorism or insurgency. Corruption has become an important cause of anger among people. Martin Luther King Jr had said – “Riots are the voices of the unheard”. Today public order in at least 40% of the districts is affected by terrorism, insurgency or extremism, the cause of which is rooted in socio-economic problems⁴. This calls for supplementing police action with improvements in the delivery of public

¹ & ² Global Competitiveness Index for 2010-11 by World Economic Forum.

³ Transparency International’s Corruption Perception Index 2010

⁴ Institute of Conflict Management – India Assessment - 2011

services and development programmes to resolve the day to day problems faced by citizens.

7. New tools of good governance like Right to Information Act, e-governance, social audit and redressal of citizens' complaints by the Vigilance Commissions have not only reduced corruption but have also helped people to air their grievance and protect their rights through legitimate means.

8. Corruption has been a pervasive problem faced by India since the earliest times. Gandhiji's observation and I quote - "*Corruption and hypocrisy ought not to be inevitable products of democracy, as they undoubtedly are today*" cannot be more relevant than in the present context. Corruption erodes and weakens the very foundations of the administrative and legal framework and disrupts the Rule of Law. Corruption has the subversive affect of destroying discipline and accountability. It is also one of the biggest threats to national security.

9. Corruption manifests in two forms – petty corruption and grand corruption. Petty corruption which can also be termed as facilitation payment predominantly occurs in the delivery of public services to the citizens and involves the lower levels of bureaucracy. Demanding bribes for issue of ration card for inclusion in the beneficiary list of rural development schemes for issue of passport or driving licence and bribing the police would fall under this category. This has the most debilitating and direct effect on a large section of society particularly the weakest and the poorest, who have to pay bribes to obtain the basic requirements provided by the state, which is rightfully due to them. According to a report on bribery published by Trace International in

2009, 51% of the bribes demanded were for timely delivery of services to which the individual was already entitled. Police department is also an important provider of public service. Grand corruption denotes corruption at higher levels of government wherein large scale undue favours are accorded to business entities. While incidents of grand corruption get highlighted prominently in the media, petty corruption has come to be accepted as a way of life.

To meet the challenge of corruption in the federal government and its organisations including Public Sector Undertakings and banks, the Central Vigilance Commission was formed in 1964 as a result of the recommendations of the Administrative Reforms Committee popularly known as the Santhanam Committee. The Commission was functioning as an independent body within the Government until 2003, when as a result of the Supreme Court directive in the Jain Hawala Case; the Commission was made a statutory authority totally independent of the Government. It was also entrusted with the mandate of superintendence over the Anti-Corruption Wing of the Central Bureau of Investigation so that investigation into cases of alleged corruption could be conducted in a fair and independent manner free from any external influence.

10. Central Vigilance Commission adopts a two-pronged approach of preventive as well as punitive vigilance to combat corruption. Punitive approach involves two kinds of action. When the evidence gathered during an inquiry is incriminating and helps in establishing an offence under the Prevention of Corruption Act then the case is referred for further investigation and prosecution by the CBI. On the other hand when the evidence gathered during an inquiry only indicates a preponderance of probability of corruption by way of undue favours

granted or misuse of authority by a public servant it is construed as an unethical conduct requiring a disciplinary action. The aim of addressing corruption through disciplinary action is to ensure that public servants indulging in unethical behaviour are punished promptly to serve as a deterrent. To enhance the quality of vigilance investigations the Commission is trying to put in place improved standards and guidelines.

11. Prevention is a more effective and efficient means of combating corruption. It involves assessing the risk of corruption in an organisation, system or process and recommending suitable controls to mitigating these risks. The vulnerabilities in the systems arise largely due to excessive discretion, authoritarian decision making process, lack of effective controls, over regulation and shortcomings in procedures. The Commission has adopted a strategy of leveraging technology to prevent corruption wherein organisations are persuaded to adopt e-governance measures and computerise on priority all those activities which are vulnerable to corruption. This approach is most effective in preventing corruption in the delivery of public services which primarily occurs due to the exercise of discretion and the need for the citizens to approach public officials. Use of technology and e-governance minimises discretion and human intervention. As measures of prevention the CVC also issues guidelines to maintain integrity in public procurement, verifies the antecedents of officers proposed for higher level appointments and maintains surveillance on persons with doubtful integrity.

12. Contrary to popular perception, corruption cannot be addressed merely through punitive efforts, though punitive action does act as a

deterrent. It requires a host of reforms in the governance framework. These include reforming the process of election funding and expenditure which is a major cause of corruption. Reforms in Benami and Anti-Money Laundering Act so as to make it difficult for the corrupt to conceal or invest the ill-gotten wealth. Promotion of transparency, objectivity and avoidance of conflict of interest in the selection and appointment to all important public offices. Transparent and participative policy making. Strengthening the independence and integrity of regulatory bodies besides effective oversight over them.

13. While most of our anti-corruption measures have largely focussed on the demand side of corruption i.e. the public servants, it is equally important to address the supply side or the private sector which offers the bribe. Recognition of active bribery or offering of bribes as an offence would increase the risk of indulging in corrupt practices for the private sector. Other efforts would include - Strengthening and effective enforcement of corporate governance measures. Streamlining financial disclosure and accounting norms so as to make it difficult for companies to conceal payment of bribe and kickbacks. These measures should be coupled with a system of blacklisting and debarring of companies found guilty of indulging in unethical practice.

14. Prevention also involves creation of awareness among people against corruption so as to elicit their cooperation in the fight against corruption. This is based on the realisation that corruption cannot be fought by the anti-corruption agencies alone without the participation of the public. We have recommended the inclusion of lessons on ethics in

the school curriculum so that we inculcate the value of ethics in society and reduce social tolerance for corruption. Many countries like Indonesia, Malaysia and Brazil have developed various interactive modules to teach ethical behaviour to children in schools. These have proved to be very successful.

15. The Commission carries out these functions through the designated vigilance functionaries in about 700 organisations and a staff of about 200 in the Commission. In order to enhance the effectiveness of anti-corruption work in tune with the increasing challenges and global best practices the commission has taken various initiatives.

16. The Commission has taken up the formulation of a National Anti-Corruption Strategy which would recommend the basic minimum action, which is required to be taken by the various stakeholders, if corruption is to be minimised in this country. The strategy which is aimed to serve as a benchmark, prescribes a participative and holistic approach to address corruption from both the supply as well as the demand side. The strategy is under finalisation.

17. In Dec., 2010, Commission initiated a project called “VIGEYE” (Vigilance Eye) to serve as a citizen-centric on line complaints handling system. Through this citizens can report corruption in public activity through their mobile phones by calling up the number 9223174440. They can also capture the demands for bribe as voice or video clip and send it along with their complaints. The Commission transmits the complaint online to the Chief Vigilance Officers of the concerned departments to take immediate action. This is particularly aimed at

providing quick relief to citizens affected by petty corruption. The results of the pilot phase have been encouraging.

18. Since 2007, Commission has been promoting the concept of Integrity Pact developed by the Transparency International. Integrity Pact involves signing of a pact between the buyer and the bidder that neither side will indulge in any unethical practice to obtain the contract. The pact is monitored by an Independent External Monitor nominated by the Commission. More than 50 organisations have adopted this concept.

19. Commission has recommended various reforms in the public procurement regime which have been accepted by the government. These include the need to put in place a comprehensive public procurement standard in India, creation of a single nodal authority to handle public procurement policy and the formulation of a False Claim Act through which companies or contractors who cause loss to the government by fraud and corruption could be punished and the money recovered. For example, if the CGHS empanelled hospitals indulge in fraudulent excess billings or overcharging the patients, then the Government or the patient can proceed against the hospital under this Act and recover the public money. The government is working to give effect to these proposals.

20. Detecting corruption and identifying the corrupt is a difficult task as corruption occurs as an inseparable part of the discharge of normal official functions. This is better explained by the great political thinker Chanakya who said that just as it is not possible to know when the fish moving in the water drinks water, similarly, it is difficult to find out when

officers employed in execution of works misappropriate money. This also highlights the need for a balanced approach in dealing with corruption wherein the guilty are identified correctly and punished severely while the honest are protected.

21. My purpose of sensitising you about corruption is because you would be playing a pivotal role in the anti-corruption efforts of this country. As police officers, you would be tasked with investigation of cases of corruption and enforcement of anti-corruption laws. At the same time, while leading your men and women you would also be required to address corruption within the ranks. Corruption in police has serious consequences because, firstly if the police which is expected to uphold the law itself becomes the violator it would lead to anarchy. If the watchdog starts eating the sheep the flock is doomed. Secondly, a corrupt police tends to become anti-poor and hence no protection is left for the weaker and vulnerable sections of society. Thirdly, police corruption often takes the form of extortion. The challenge of addressing corruption within the ranks may not be an easy task with this problem entrenched deeply in the system, yet by devising innovative methods, by the use of technology and through personal commitment it can be accomplished.

22. The most significant cause of a negative police community relationship is corruption. Policing in a democracy cannot be successful without the participation of the people. Community policing has come to be accepted as the most effective and efficient method of not only tackling crime and law and order problems but also terrorism and naxalism. Community policing calls for a participative, problem solving,

service oriented approach. Acceptability and trust by the people is essential to ensure participation by the community. Integrity of individual officers and the police organisation as a whole is necessary to achieve this. An important point to remember is that integrity is something integral to professional competence. At an individual level only integrity coupled with competence and professionalism can lead to true job satisfaction.

23. World over police departments are being seen as engaged in providing public service to the citizens. Police should inculcate this culture of a service providing agency wherein the citizens are treated as the customers and you as managers would have to ensure the quality of service. The websites of many police departments in the developed world are not different from that of any private company offering services to its customers.

24. Your role as investigators of cases of fraud and corruption is also no less challenging given the increasing complexity of corrupt transactions and its cross-border dimensions. The ratification of the United Nations Convention Against Corruption by India in May this year would require a stronger enforcement regime. Similarly, the existence of various conventions and international legal instruments dealing with bribery in international business transactions has put tremendous pressure on the Indian companies to comply with them and the Indian anti-corruption authorities to enforce them. The Government of India has now proposed a new Act to deal with transnational bribery involving bribery of foreign public officials. We are also witnessing an era of increasing international cooperation in dealing with fraud and corruption which calls for better mutual legal assistance and joint investigations

among countries. These challenges can only be met if better techniques and a multi-disciplinary approach involving forensic auditing, IT and accounting. There is a need for capacity building and exposure to global best practices for the police officers to enable them to catch up with the rest of world. Besides detection of fraud and corruption, information technology needs to be exploited for national security against terrorism. Cyber space host significant parts of our economy and is also a major communication channel. There is an urgent need to build up a strong capability to defend against the increasing threat of cyber attacks and information warfare. The Information Technology Act 2000 along with its amendment in 2008 has brought in more clarity about the offences and penal action relating to cyber crimes. A major challenge in this regard is the coordination of police in different states, cooperation of Service Providers in India and abroad, cooperation between private sector and police and lastly cooperation from all IT users.

25. Another important issue which I wish to touch upon is the much needed police reforms which have been on the anvil for more than three decades now. Several reports and recommendations have been made and some states have started to draft new legislations to give effect to these recommendations based on the directive of the Supreme Court. While most of these reforms have focussed on safeguarding the need for the police from undue political interference; and separation of investigation and law and order, it is equally important to address issues of better accountability, transparency and people's participation in the functioning of the police.

26. You must remember that after going out from the portals of this prestigious institution, you would not be merely occupying important positions in the district and the state, but protecting families and homes to ensure that each citizen lives with dignity and freedom from fear. As the guardian of human rights you would be the last refuge for the weakest man or woman on the street. Many a times you may be alone in your fight with only your intellectual honesty and a higher commitment to guide you. There would be difficult choices to make. India is a difficult country to govern in the best of times but I am confident that you will measure up to the challenge.

27. I would like to thank the Academy and the faculty for giving me this opportunity to interact with all of you. I wish all the probationers success and a bright carrier ahead.
