

Governing a Democracy and Guiding Development Recent Policy Explosion in India and Ethics in Governance

Rajarshi Dasgupta

Introduction

A key component of the current policies aiming to liberalize India is the restructuring of the government. On the face of it, such an overhaul is meant to render the administration, especially the top echelons, totally free of corruption. As such it recalls earlier drives and presents itself more or less as a routine follow up. But the actual recommendations seem to suggest a much more elaborate undertaking, to radically alter the profile of those who are governing, and the specific ways in which they are going to govern in the coming days. It is at one stroke a reform of the public administration system and an attempt to release fresh energy into governance, for enacting laws and planning institutions, moulding practices and fixing values, all that is needed for a market oriented growth, while keeping democracy intact. A sense of this larger task informs the recent measures, to discipline the personnel and train them according to shifting priorities, under the modest template of fighting corruption. This is the area I propose to take up for study, which is strategically linked to the wider policy explosion. The restructuring is a policy initiative that seeks to guarantee in some sense the proper implementation of the rest. It also seeks to effect a redistribution of power among various divisions of the government, which could be decisive for the new course of governing India.

The study can be framed by a larger question. Are governmental practices coming to the point where they take the government itself as a problem of governance? It may be partly due to the pressure of citizens' participation in our case, growing everyday with claims to autonomy and social justice, civil society activism and political outbreaks in unexpected areas. But the plan to restructure the government also refers to similar efforts in the UK, Japan and several other countries in a way that does not reflect domestic pressures alone. There is a meticulous thinking on how the government should be conducting itself, simultaneously, as it governs the conduct and life of the people at large. There is a much greater sense of the collusion of power and profit, and the clever ways in which the rule of law is flouted by those in office, unnoticed until a public outrage takes place. There is a careful assessment of the limitations of centralized institutions and efforts to make the citizens take a proactive role in governance. Is the government then turning in this way into a conscious subject of its own practice, in the manner in which the population has been the subject of governmental practice so far? In any case, it seems we are witnessing a critical self-referential turn of neoliberal governmentality, which needs to be understood better. It will be important to see if the distance between the governed and government wanes as a result, or if it is amplified at another level, insulated from politics. Both tendencies have far-reaching implications for democracy.

The question we are directly dealing with is how to govern those who govern the people. Adding to regulatory mechanisms cannot be the answer if we want to prevent an over-regulated system. The preferred response seems to be a portfolio of strategies – public disclosure and social audits, networks of localized institutions, revising the related constitutional provisions, allowing competition and outsourcing, and strongly asserting values and principles. In fact, the discourse of restructuring

raises even more questions than it manages to answer. But the questions carry a clear sense of how the problem of government is being approached by policy makers today. For example, it is frequently seen as a practical matter of appointing worthy candidates to sensitive positions of authority, where worth is seen as a capacity for selfless service. The society will monitor closely when this capacity is failing. But the figure of authority must be moral exemplar. In short, the public servants have to follow a strict ethical framework where power must eschew profit motive. This will supposedly ensure there is no abuse of authority. What the policy discourse does not spell out in this case is the compatibility of such morality with the logic of market oriented growth, which should be fascinating for us to explore.

Administrative Reforms Commission

In order to access this particular field of governmental discourse, we need to look at the Administrative Commission Reports that accompany the recent policies. They provide the reasoning, the direction and detail of the overhauling process sketched above. It is particularly useful to study the changing recommendations of the Administrative Reforms Commissions, which originally focused on setting up new institutions to tackle the problem of monetary corruption. Thus the Central Vigilance Commission (CVC) was set up on the recommendations of the Committee on Prevention of Corruption in 1964, known as the Santhanam Committee. Many will remember that corruption played a very instrumental role in the political upheaval of that period, inspiring new social movements. The first Administrative Reforms Commission recommended thereafter the setting up of an additional office of Lok Pal, which is still waiting to become a law in the parliament. But many states have since then constituted 'Lokayuktas' to investigate into the conduct of public servants. Given this backdrop, the Second Administrative Reforms Commission can be seen to envisage a more systematic transformation in this regard, which calls for serious consideration.

As the report has it, the "Second Administrative Reforms Commission was set up with a wide mandate to prepare a blue print for revamping the public administration system and to suggest measures to achieve a pro-active, responsive, accountable, sustainable and efficient administration for the country at all levels of government". The Commission considered some key aspects to achieve a citizen-centric administration, like accountable and transparent government; the shift from transactional to transformative governance; and progressive interventions to make the administration more result-oriented. As many as fifteen reports in depth were submitted in 2005 on a wide range of issues like right to information, social capital, human capital, crisis management, combating terrorism, public order, local governance and e-governance, to name only a few. Taken together they offered a broad spectrum of the emerging priority areas of governance in India. It is necessary to study these reports at length and closely scrutinize their recommendations. The Commission's fourth report may be seen to set the moral tone of the restructuring, with a clear set of recommendations on the matter. They address the issue of 'ethics in governance', which the study intends to take up in detail. The major recommendations of report are as follows.

The government is to prepare 'Code of Ethics' and 'Code of Conduct' for the union and state ministers and the members of legislatures and anyone working in the capacity of public authority, besides submitting annual reports on their performance. Both houses of the parliament are to constitute an office of Ethics Commissioner working under the speaker or chairman to assist the Committee on Ethics in the

house. The government will maintain registers of the members' interests in the parliament with emphasis on offices of profit. In addition, a three member Rashtriya Lokayukta will be set up for supervision, alongside appointing Ombudsman at local levels to supervise panchayati raj institutions and urban local bodies covering a group of districts. The government should also prepare Public Service Values for the civil servants, and set up a National Judicial Council to prepare a Code of Conduct for the judiciary. The Prevention of Corruption Act must be amended to include private sector providers of public utility services as well as NGOs. The Benami Transaction (Prohibition) Act will have to be implemented without further delay, and a Serious Frauds Office must be set up to look into serious economic offences. Apart from this, protection will be provided to the whistleblowers through legislation including corporate whistleblowers. Significantly, Article 311 and 310 will be repealed as they are seen to provide undue protection to corrupt civil servants. In this regard, the Law Commission of India had prepared a special law titled 'Corrupt Public Servants (Forfeiture of Property) Bill' in 1999, which should be expedited in the parliament. The investigation and prosecution process should be strengthened by recruiting teams with multi-disciplinary skills and expertise in modern techniques of investigation. Moreover, Citizens' Charters will be prepared for assessing and maintaining ethics in governance, which will be bolstered with special reward schemes and school awareness programs. Social audits and self-regulating mechanisms will be fortified and competition will be promoted using information technology and proactive vigilance.

Ethics in Governance

Our primary task will be to study three major institutions highlighted above, the office of Ethics Commissioner, Rashtriya Lokayukta and the Ethics Committee. The idea is to examine these new institutions in the background of existing ones like the vigilance commission, and combine it with a study of the codes of conduct and the annual reports prepared in this regard. We may also find it necessary to follow new investigations into corruption, and review the impact of social audit mechanisms, like citizens' charters and *jansunwaii* on specific areas, like the public distribution system. The basic objective will be to check if these measures match up to the brief outlined in the commission's report and to appraise the reform process critically. The overall concern is to comprehend how the restructuring tries to translate the notion of good governance into practice, and what is its impact on the composition of the government. As noted before, the project is framed by a larger theoretical query, whose concern is how the government is lately coming to be regarded as a specific problem and subject of governance, in neo-liberal governmentality. Our point of departure is, however, an immediate question: what do such reforms mean by 'ethics in governance'.

A careful reading of the government's discourse on reform reveals that the use of the term 'ethics' does not have sufficient clarity in the concerned reports. It has been treated more often as the absence of corruption, with the assumption that we are dealing with monetary corruption only. It is thus all the more important to notice that monetary corruption does not always feature at top of the government's list of worries. There seems to be two other kinds of corruption fuelling the anxieties of the authorities, which have been mentioned rather briefly and indirectly in the reports. One of them is identified as the growing 'criminalization of politics', which can upset the best laid plans for good governance. The other corruption is more difficult to plot, or so the report admits. As Suresh Pachouri, the Minister of State for Personnel, Public Grievances & Pensions and Parliamentary Affairs, has remarked, the "biggest

challenge, however, is to make our public servants act with integrity, honesty and selflessness. These are the attributes solely ethical in nature and therefore pose difficulty in setting measurable standards for them" (Colloquium on 'Ethics in Governance – Moving from Rhetoric to Results', National Judicial Academy, Bhopal, 1-2 September, 2006). That is why the report submitted a list of values modeled after the Lord Nolan Committee's recommendations in the UK. The list provides seven cardinal principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership, which must distinguish the figures of public authority.

It is important to analyze the conceptual overlaps and contradictions between the three different notions of corruption and the corresponding perception of ethics in governance. There is a strong possibility that the lack of clarity in fact allows an easy contrast to be set up between 'political corruption' on the one hand and 'selfless' administrators on the other hand standing above politics. The implicit identification of politics as liable source of corruption is bound to be seriously reductive for envisaging ethics in governance. It may well lead to an authority structurally intolerant of politics and blind to progressive interventions. It is very likely to make the executive a disproportionately powerful body at the expense of legislatures in a manner that undermines electoral democracy. There are other perils as well. The idea to make the government answerable by a decentralized mechanism of vigilance by proactive citizens needs to be executed with proper caution. It involves the risk of going astray from a logic embodied in social audit to a perverse form of police-society, where excessive surveillance may destroy trust and disrupt the social fabric. This running thread of securitization is what makes the idea of ethics rather thin and precarious in the discourse of reforming governance. The initiative remains too dependent on policing strategies for the normative values it holds up to actually succeed. There is a recurrent collapse of conservative morality with ethics as a larger philosophical category, which needs to be firmly set apart in order to allow a new relationship between power and ethics to materialize in governance.

Larger Research Questions

In the light of the above discussion, some larger research questions are given below.

1. What are the main features of governmental practice that takes the government itself as a problem and subject of governance? What kind of turn does it signify for the logic of governmentality?
2. What is the nature of restructuring set in motion by the Administrative Reforms Commissions with regard to governance? How is it different from older initiatives in this regard?
3. Is there an effort to insulate the administration from politics that marks an ascendancy of the executive over legislative bodies? How far should we regard such moves democratic in an electoral system?
4. Is proactive vigilance the best possible form of citizen-centric administration? Does it involve substantive decision making about the goals of development?
5. Should ethics be limited to monetary corruption or should it address more serious breaches in governance, including the cases of authority's violence on people?

6. What is the self-image sought by the government with the model of selfless administrators? Is this image dissonant or consonant with the ethos of neo-liberal capitalism?